

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 339

Introduced by Assembly Member Harman

February 10, 2005

An act to amend Section 17900 of the Business and Professions Code, to amend Sections 1113, 1152, and 1157 of, to add Chapter 1 (commencing with Section 15900) to, and to add and repeal Sections 15534 and 15724 of, the Corporations Code, *and to repeal and add Section 12188 of the Government Code*, relating to limited partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as amended, Harman. *Uniform Limited Partnership Act of 2005.*

Existing law sets forth rules of organization and governance for limited partnerships.

This bill would revise and recast these provisions by enacting the Limited Partnership Act of 2005 and would repeal the existing provisions *for limited partnerships* on January 1, 2008. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17900 of the Business and Professions
- 2 Code is amended to read:
- 3 17900. (a) As used in this chapter, "fictitious business name"
- 4 means:

1 (1) In the case of an individual, a name that does not include
2 the surname of the individual or a name that suggests the
3 existence of additional owners.

4 (2) In the case of a partnership or other association of persons,
5 other than a limited partnership that has filed a certificate of
6 limited partnership with the Secretary of State pursuant to
7 Section 15621 or 15902.01 of the Corporations Code, a foreign
8 limited partnership that has filed an application for registration
9 with the Secretary of State pursuant to Section 15692 *or*
10 *15909.02* of the Corporations Code ~~or an application for~~
11 ~~certificate of authority pursuant to Section 15909.02 of the~~
12 ~~Corporations Code~~, a registered limited liability partnership that
13 has filed a registration pursuant to Section 15049 or 16953 of the
14 Corporations Code, or a foreign limited liability partnership that
15 has filed an application for registration pursuant to Section 15055
16 or 16959 of the Corporations Code, a name that does not include
17 the surname of each general partner or a name that suggests the
18 existence of additional owners.

19 (3) In the case of a corporation, any name other than the
20 corporate name stated in its articles of incorporation.

21 (4) In the case of a limited partnership that has filed a
22 certificate of limited partnership with the Secretary of State
23 pursuant to Section 15621 or 15902.01 of the Corporations Code
24 and in the case of a foreign limited partnership that has filed an
25 application for registration with the Secretary of State pursuant to
26 Section 15692 *or 15909.02* of the Corporations Code ~~or an~~
27 ~~application for certificate of authority pursuant to Section~~
28 ~~15909.02 of the Corporations Code~~, any name other than the
29 name of the limited partnership as on file with the Secretary of
30 State.

31 (5) In the case of a limited liability company, any name other
32 than the name stated in its articles of organization and in the case
33 of a foreign limited liability company that has filed an
34 application for registration with the Secretary of State pursuant to
35 Section 17451 of the Corporations Code, any name other than the
36 name of the limited liability company as on file with the
37 Secretary of State.

38 (b) A name that suggests the existence of additional owners
39 within the meaning of subdivision (a) is one which includes such
40 words as “Company,” “& Company,” “& Son,” “& Sons,” “&

1 Associates,” “Brothers,” and the like, but not words that merely
2 describe the business being conducted.

3 SEC. 2. Section 1113 of the Corporations Code is amended to
4 read:

5 1113. (a) Any one or more corporations may merge with one
6 or more other business entities (Section 174.5). One or more
7 domestic corporations (Section 167) not organized under this
8 division and one or more foreign corporations (Section 171) may
9 be parties to the merger. Notwithstanding the provisions of this
10 section, the merger of any number of corporations with any
11 number of other business entities may be effected only if:

12 (1) In a merger in which a domestic corporation not organized
13 under this division or a domestic other business entity is a party,
14 it is authorized by the laws under which it is organized to effect
15 the merger.

16 (2) In a merger in which a foreign corporation is a party, it is
17 authorized by the laws under which it is organized to effect the
18 merger.

19 (3) In a merger in which a foreign other business entity is a
20 party, it is authorized by the laws under which it is organized to
21 effect the merger.

22 (b) Each corporation and each other party which desires to
23 merge shall approve, and shall be a party to, an agreement of
24 merger. Other persons, including a parent party (Section 1200),
25 may be parties to the agreement of merger. The board of each
26 corporation which desires to merge, and, if required the
27 shareholders, shall approve the agreement of merger. The
28 agreement of merger shall be approved on behalf of each party
29 by those persons required to approve the merger by the laws
30 under which it is organized. The agreement of merger shall state:

31 (1) The terms and conditions of the merger.

32 (2) The name and place of incorporation or organization of
33 each party to the merger and the identity of the surviving party.

34 (3) The amendments, if any, subject to Sections 900 and 907,
35 to the articles of the surviving corporation, if applicable, to be
36 effected by the merger. If any amendment changes the name of
37 the surviving corporation, if applicable, the new name may be,
38 subject to subdivision (b) of Section 201, the same as or similar
39 to the name of a disappearing party to the merger.

1 (4) The manner of converting the shares of each constituent
2 corporation into shares, interests, or other securities of the
3 surviving party. If any shares of any constituent corporation are
4 not to be converted solely into shares, interests or other securities
5 of the surviving party, the agreement of merger shall state (i) the
6 cash, rights, securities, or other property which the holders of
7 those shares are to receive in exchange for the shares, which
8 cash, rights, securities, or other property may be in addition to or
9 in lieu of shares, interests or other securities of the surviving
10 party, or (ii) that the shares are canceled without consideration.

11 (5) Any other details or provisions required by the laws under
12 which any party to the merger is organized, including, if a public
13 benefit corporation or a religious corporation is a party to the
14 merger, Section 6019.1, or, if a mutual benefit corporation is a
15 party to the merger, Section 8019.1, or, if a consumer
16 cooperative corporation is a party to the merger, Section 12540.1,
17 or, if a domestic limited partnership is a party to the merger,
18 Section 15678.2 or Section 15911.06, or, if a domestic
19 partnership is a party to the merger, Section 16911, or, if a
20 domestic limited liability company is a party to the merger,
21 Section 17551.

22 (6) Any other details or provisions as are desired, including,
23 without limitation, a provision for the payment of cash in lieu of
24 fractional shares or for any other arrangement with respect
25 thereto consistent with the provisions of Section 407.

26 (c) Each share of the same class or series of any constituent
27 corporation (other than the cancellation of shares held by a party
28 to the merger or its parent, or a wholly owned subsidiary of
29 either, in another constituent corporation) shall, unless all
30 shareholders of the class or series consent and except as provided
31 in Section 407, be treated equally with respect to any distribution
32 of cash, rights, securities, or other property. Notwithstanding
33 paragraph (4) of subdivision (b), the nonredeemable common
34 shares of a constituent corporation may be converted only into
35 nonredeemable common shares of a surviving corporation or a
36 parent party (Section 1200) or nonredeemable equity securities of
37 a surviving party other than a corporation if another party to the
38 merger or its parent owns, directly or indirectly, prior to the
39 merger shares of that corporation representing more than 50
40 percent of the voting power of that corporation, unless all of the

1 shareholders of the class consent and except as provided in
2 Section 407.

3 (d) Notwithstanding its prior approval, an agreement of
4 merger may be amended prior to the filing of the agreement of
5 merger or the certificate of merger, as is applicable, if the
6 amendment is approved by the board of each constituent
7 corporation and, if the amendment changes any of the principal
8 terms of the agreement, by the outstanding shares (Section 152),
9 if required by Chapter 12 (commencing with Section 1200), in
10 the same manner as the original agreement of merger. If the
11 agreement of merger as so amended and approved is also
12 approved by each of the other parties to the agreement of merger,
13 the agreement of merger as so amended shall then constitute the
14 agreement of merger.

15 (e) The board of a constituent corporation may, in its
16 discretion, abandon a merger, subject to the contractual rights, if
17 any, of third parties, including other parties to the agreement of
18 merger, without further approval by the outstanding shares
19 (Section 152), at any time before the merger is effective.

20 (f) Each constituent corporation shall sign the agreement of
21 merger by its chairperson of the board, president or a vice
22 president and also by its secretary or an assistant secretary acting
23 on behalf of their respective corporations.

24 (g) (1) If the surviving party is a corporation or a foreign
25 corporation, or if a public benefit corporation (Section 5060), a
26 mutual benefit corporation (Section 5059), a religious
27 corporation (Section 5061), or a corporation organized under the
28 Consumer Cooperative Corporation Law (Section 12200) is a
29 party to the merger, after required approvals of the merger by
30 each constituent corporation through approval of the board
31 (Section 151) and any approval of the outstanding shares
32 (Section 152) required by Chapter 12 (commencing with Section
33 1200) and by the other parties to the merger, the surviving party
34 shall file a copy of the agreement of merger with an officers'
35 certificate of each constituent domestic and foreign corporation
36 attached stating the total number of outstanding shares or
37 membership interests of each class entitled to vote on the merger
38 (and identifying any other person or persons whose approval is
39 required), that the agreement of merger in the form attached or its
40 principal terms, as required, were approved by that corporation

1 by a vote of a number of shares or membership interests of each
2 class that equaled or exceeded the vote required, specifying each
3 class entitled to vote and the percentage vote required of each
4 class and, if applicable, by that other person or persons whose
5 approval is required, or that the merger agreement was entitled to
6 be and was approved by the board alone (as provided in Section
7 1201, in the case of corporations subject to that section). If equity
8 securities of a parent party (Section 1200) are to be issued in the
9 merger, the officers' certificate of that controlled party shall state
10 either that no vote of the shareholders of the parent party was
11 required or that the required vote was obtained. In lieu of an
12 officers' certificate, a certificate of merger, on a form prescribed
13 by the Secretary of State, shall be filed for each constituent other
14 business entity. The certificate of merger shall be executed and
15 acknowledged by each domestic constituent limited liability
16 company by all managers of the limited liability company (unless
17 a lesser number is specified in its articles or organization or
18 operating agreement) and by each domestic constituent limited
19 partnership by all general partners (unless a lesser number is
20 provided in its certificate of limited partnership or partnership
21 agreement) and by each domestic constituent general partnership
22 by two partners (unless a lesser number is provided in its
23 partnership agreement) and by each foreign constituent limited
24 liability company by one or more managers and by each foreign
25 constituent general partnership or foreign constituent limited
26 partnership by one or more general partners, and by each
27 constituent reciprocal insurer by the chairperson of the board,
28 president, or vice president, and by the secretary or assistant
29 secretary, or, if a constituent reciprocal insurer has not appointed
30 those officers, by the chairperson of the board, president, or vice
31 president, and by the secretary or assistant secretary of the
32 constituent reciprocal insurer's attorney in fact, and by each other
33 party to the merger by those persons required or authorized to
34 execute the certificate of merger by the laws under which that
35 party is organized, specifying for that party the provision of law
36 or other basis for the authority of the signing persons. The
37 certificate of merger shall set forth, if a vote of the shareholders,
38 members, partners, or other holders of interests of the constituent
39 other business entity was required, a statement setting forth the
40 total number of outstanding interests of each class entitled to vote

1 on the merger and that the agreement of merger in the form
2 attached or its principal terms, as required, were approved by a
3 vote of the number of interests of each class that equaled or
4 exceeded the vote required, specifying each class entitled to vote
5 and the percentage vote required of each class, and any other
6 information required to be set forth under the laws under which
7 the constituent other business entity is organized, including, if a
8 domestic limited partnership is a party to the merger, subdivision
9 (a) of Section 15678.4 or subdivision (b) of Section 15911.08, if
10 a domestic partnership is a party to the merger, subdivision (b) of
11 Section 16915, and, if a domestic limited liability company is a
12 party to the merger, subdivision (a) of Section 17552. The
13 certificate of merger for each constituent foreign other business
14 entity, if any, shall also set forth the statutory or other basis under
15 which that foreign other business entity is authorized by the laws
16 under which it is organized to effect the merger. The merger and
17 any amendment of the articles of the surviving corporation, if
18 applicable, contained in the agreement of merger shall be
19 effective upon filing of the agreement of merger with an officer's
20 certificate of each constituent domestic and foreign corporation
21 and a certificate of merger for each constituent other business
22 entity, subject to subdivision (c) of Section 110 and subject to the
23 provisions of subdivision (j), and the several parties thereto shall
24 be one entity. The agreement of merger shall not be filed,
25 however, until there has been filed by or on behalf of each party
26 to the merger taxed under the Bank and Corporation Tax Law,
27 the existence of which is terminated by the merger, the certificate
28 of satisfaction of the Franchise Tax Board that all taxes imposed
29 by that law have been paid or secured. If a domestic reciprocal
30 insurer organized after 1974 to provide medical malpractice
31 insurance is a party to the merger, the agreement of merger or
32 certificate of merger shall not be filed until there has been filed
33 the certificate issued by the Insurance Commissioner approving
34 the merger pursuant to Section 1555 of the Insurance Code. The
35 Secretary of State may certify a copy of the agreement of merger
36 separate from the officers' certificates and certificates of merger
37 attached thereto.

38 (2) If the surviving entity is an other business entity, and no
39 public benefit corporation (Section 5060), mutual benefit
40 corporation (Section 5059), religious corporation (Section 5061),

1 or corporation organized under the Consumer Cooperative
2 Corporation Law (Section 12200) is a party to the merger, after
3 required approvals of the merger by each constituent corporation
4 through approval of the board (Section 151) and any approval of
5 the outstanding shares (Section 152) required by Chapter 12
6 (commencing with Section 1200) and by the other parties to the
7 merger, the parties to the merger shall file a certificate of merger
8 in the office of, and on a form prescribed by, the Secretary of
9 State. The certificate of merger shall be executed and
10 acknowledged by each constituent domestic and foreign
11 corporation by its chairperson of the board, president or a vice
12 president and also by its secretary or an assistant secretary and by
13 each domestic constituent limited liability company by all
14 managers of the limited liability company (unless a lesser
15 number is specified in its articles of organization or operating
16 agreement) and by each domestic constituent limited partnership
17 by all general partners (unless a lesser number is provided in its
18 certificate of limited partnership or partnership agreement) and
19 by each domestic constituent general partnership by two partners
20 (unless a lesser number is provided in its partnership agreement)
21 and by each foreign constituent limited liability company by one
22 or more managers and by each foreign constituent general
23 partnership or foreign constituent limited partnership by one or
24 more general partners, and by each constituent reciprocal insurer
25 by the chairperson of the board, president, or vice president, and
26 by the secretary or assistant secretary, or, if a constituent
27 reciprocal insurer has not appointed those officers, by the
28 chairperson of the board, president, or vice president, and by the
29 secretary or assistant secretary of the constituent reciprocal
30 insurer's attorney in fact. The certificate of merger shall be
31 signed by each other party to the merger by those persons
32 required or authorized to execute the certificate of merger by the
33 laws under which that party is organized, specifying for that
34 party the provision of law or other basis for the authority of the
35 signing persons. The certificate of merger shall set forth all of the
36 following:

37 (A) The name, place of incorporation or organization, and the
38 Secretary of State's file number, if any, of each party to the
39 merger, separately identifying the disappearing parties and the
40 surviving party.

1 (B) If the approval of the outstanding shares of a constituent
2 corporation was required by Chapter 12 (commencing with
3 Section 1200), a statement setting forth the total number of
4 outstanding shares of each class entitled to vote on the merger
5 and that the principal terms of the agreement of merger were
6 approved by a vote of the number of shares of each class entitled
7 to vote and the percentage vote required of each class.

8 (C) The future effective date or time, not more than 90 days
9 subsequent to the date of filing of the merger, if the merger is not
10 to be effective upon the filing of the certificate of merger with
11 the office of the Secretary of State.

12 (D) A statement, by each party to the merger which is a
13 domestic corporation not organized under this division, a foreign
14 corporation, or an other business entity, of the statutory or other
15 basis under which that party is authorized by the laws under
16 which it is organized to effect the merger.

17 (E) Any other information required to be stated in the
18 certificate of merger by the laws under which each party to the
19 merger is organized, including, if a domestic limited liability
20 company is a party to the merger, subdivision (a) of Section
21 17552, if a domestic partnership is a party to the merger,
22 subdivision (b) of Section 16915, and, if a domestic limited
23 partnership is a party to the merger, subdivision (a) of Section
24 15678.4 or subdivision (b) of Section 15911.08.

25 (F) Any other details or provisions that may be desired.

26 Unless a future effective date or time is provided in a
27 certificate of merger, in which event the merger shall be effective
28 at that future effective date or time, a merger shall be effective
29 upon the filing of the certificate of merger in the office of the
30 Secretary of State and the several parties thereto shall be one
31 entity. The certificate of merger shall not be filed, however, until
32 there has been filed by or on behalf of each party to the merger
33 that is taxed under the Bank and Corporation Tax Law, the
34 existence of which is terminated by the merger, the certificate of
35 satisfaction of the Franchise Tax Board that all taxes imposed by
36 the Bank and Corporation Tax Law have been paid or secured.
37 The surviving other business entity shall keep a copy of the
38 agreement of merger at its principal place of business which, for
39 purposes of this subdivision, shall be the office referred to in
40 Section 17057 if a domestic limited liability company, at the

1 business address specified in paragraph (5) of subdivision (a) of
2 Section 17552 if a foreign limited liability company, at the office
3 referred to in subdivision (a) of Section 16403 if a domestic
4 general partnership, at the business address specified in
5 subdivision (f) of Section 16911 if a foreign partnership, at the
6 office referred to in subdivision (a) of Section 15614 or in
7 subdivision (a) of Section 15901.14 if a domestic limited
8 partnership, or at the business address specified in paragraph (5)
9 of subdivision (a) of Section 15678.4 or paragraph (3) of
10 subdivision (a) of Section 15909.02 if a foreign limited
11 partnership. Upon the request of a holder of equity securities of a
12 party to the merger, a person with authority to do so on behalf of
13 the surviving other business entity shall promptly deliver to that
14 holder, a copy of the agreement of merger. A waiver by that
15 holder of the rights provided in the foregoing sentence shall be
16 unenforceable. If a domestic reciprocal insurer organized after
17 1974 to provide medical malpractice insurance is a party to the
18 merger the agreement of merger or certificate of merger shall not
19 be filed until there has been filed the certificate issued by the
20 Insurance Commissioner approving the merger in accordance
21 with Section 1555 of the Insurance Code.

22 (h) (1) A copy of an agreement of merger certified on or after
23 the effective date by an official having custody thereof has the
24 same force in evidence as the original and, except as against the
25 state, is conclusive evidence of the performance of all conditions
26 precedent to the merger, the existence on the effective date of the
27 surviving party to the merger and the performance of the
28 conditions necessary to the adoption of any amendment to the
29 articles, if applicable, contained in the agreement of merger.

30 (2) For all purposes for a merger in which the surviving entity
31 is a domestic other business entity and the filing of a certificate
32 of merger is required by paragraph (2) of subdivision (g), a copy
33 of the certificate of merger duly certified by the Secretary of
34 State is conclusive evidence of the merger of the constituent
35 corporations, either by themselves or together with the other
36 parties to the merger, into the surviving other business entity.

37 (i) (1) Upon a merger pursuant to this section, the separate
38 existences of the disappearing parties to the merger cease and the
39 surviving party to the merger shall succeed, without other
40 transfer, to all the rights and property of each of the disappearing

1 parties to the merger and shall be subject to all the debts and
2 liabilities of each in the same manner as if the surviving party to
3 the merger had itself incurred them.

4 (2) All rights of creditors and all liens upon the property of
5 each of the constituent corporations and other parties to the
6 merger shall be preserved unimpaired, provided that those liens
7 upon property of a disappearing party shall be limited to the
8 property affected thereby immediately prior to the time the
9 merger is effective.

10 (3) Any action or proceeding pending by or against any
11 disappearing corporation or disappearing party to the merger may
12 be prosecuted to judgment, which shall bind the surviving party,
13 or the surviving party may be proceeded against or substituted in
14 its place.

15 (4) If a limited partnership or a general partnership is a party
16 to the merger, nothing in this section is intended to affect the
17 liability a general partner of a disappearing limited partnership or
18 general partnership may have in connection with the debts and
19 liabilities of the disappearing limited partnership or general
20 partnership existing prior to the time the merger is effective.

21 (j) (1) The merger of domestic corporations with foreign
22 corporations or foreign other business entities in a merger in
23 which one or more other business entities is a party shall comply
24 with subdivision (a) and this subdivision.

25 (2) If the surviving party is a domestic corporation or domestic
26 other business entity, the merger proceedings with respect to that
27 party and any domestic disappearing corporation shall conform
28 to the provisions of this section. If the surviving party is a foreign
29 corporation or foreign other business entity, then, subject to the
30 requirements of subdivision (c), and of Section 407 and Chapter
31 12 (commencing with Section 1200) and Chapter 13
32 (commencing with Section 1300), and, if applicable,
33 corresponding provisions of the Nonprofit Corporation Law or
34 the Consumer Cooperative Corporation Law, with respect to any
35 domestic constituent corporations, Chapter 13 (commencing with
36 Section 17600) of Title 2.5 with respect to any domestic
37 constituent limited liability companies, Article 6 (commencing
38 with Section 16601) of Chapter 5 of Title 2 with respect to any
39 domestic constituent general partnerships, and Article 7.6
40 (commencing with Section 15679.1) of Chapter 3 of Title 2 with

1 respect to any domestic constituent limited partnerships, the
2 merger proceedings may be in accordance with the laws of the
3 state or place of incorporation or organization of the surviving
4 party.

5 (3) If the surviving party is a domestic corporation or domestic
6 other business entity, the certificate of merger or the agreement
7 of merger with attachments shall be filed as provided in
8 subdivision (g) and thereupon, subject to subdivision (c) of
9 Section 110 or paragraph (2) of subdivision (g), as is applicable,
10 the merger shall be effective as to each domestic constituent
11 corporation and domestic constituent other business entity.

12 (4) If the surviving party is a foreign corporation or foreign
13 other business entity, the merger shall become effective in
14 accordance with the law of the jurisdiction in which the surviving
15 party is organized, but, except as provided in paragraph (5), the
16 merger shall be effective as to any domestic disappearing
17 corporation as of the time of effectiveness in the foreign
18 jurisdiction upon the filing in this state of a copy of the
19 agreement of merger with an officers' certificate of each
20 constituent foreign and domestic corporation and a certificate of
21 merger of each constituent other business entity attached, which
22 officers' certificates and certificates of merger shall conform to
23 the requirements of paragraph (1) of subdivision (g). If one or
24 more domestic other business entities is a disappearing party in a
25 merger pursuant to this subdivision in which a foreign other
26 business entity is the surviving entity, a certificate of merger
27 required by the laws under which that domestic other business
28 entity is organized, including subdivision (a) of Section 15678.4,
29 *subdivision (b) of Section 15911.08*, subdivision (b) of Section
30 16915, or subdivision (a) of Section 17552, as is applicable, shall
31 also be filed at the same time as the filing of the agreement of
32 merger.

33 (5) If the date of the filing in this state pursuant to this
34 subdivision is more than six months after the time of the
35 effectiveness in the foreign jurisdiction, or if the powers of a
36 domestic disappearing corporation are suspended at the time of
37 effectiveness in the foreign jurisdiction, the merger shall be
38 effective as to the domestic disappearing corporation as of the
39 date of filing in this state.

(6) In a merger described in paragraph (3) or (4), each foreign disappearing corporation that is qualified for the transaction of intrastate business shall by virtue of the filing pursuant to this subdivision, subject to subdivision (c) of Section 110, automatically surrender its right to transact intrastate business in this state. The filing of the agreement of merger or certificate of merger, as is applicable, pursuant to this subdivision, by a disappearing foreign other business entity registered for the transaction of intrastate business in this state shall, by virtue of that filing, subject to subdivision (c) of Section 110, automatically cancels the registration for that foreign other business entity, without the necessity of the filing of a certificate of cancellation.

(7) A certificate of satisfaction of the Franchise Tax Board for each disappearing party to the merger shall be filed when required by subdivision (g) or when required by Section 23334 of the Revenue and Taxation Code.

SEC. 3. Section 1152 of the Corporations Code is amended to read:

1152. (a) A corporation that desires to convert to a domestic other business entity shall approve a plan of conversion. The plan of conversion shall state all of the following:

- (1) The terms and conditions of the conversion.
- (2) The jurisdiction of the organization of the converted entity and of the converting corporation and the name of the converted entity after conversion.
- (3) The manner of converting the shares of each of the shareholders of the converting corporation into securities of, or interests in, the converted entity.
- (4) The provisions of the governing documents for the converted entity, including the partnership agreement or limited liability company articles of organization and operating agreement, to which the holders of interests in the converted entity are to be bound.
- (5) Any other details or provisions that are required by the laws under which the converted entity is organized, or that are desired by the converting corporation.
- (b) The plan of conversion shall be approved by the board of the converting corporation (Section 151), and the principal terms of the plan of the conversion shall be approved by the

1 outstanding shares (Section 152) of each class of the converting
2 corporation. The approval of the outstanding shares may be given
3 before or after approval by the board. Notwithstanding the
4 foregoing, if a converting corporation is a close corporation, the
5 conversion shall be approved by the affirmative vote of at least
6 two-thirds of each class of outstanding shares of that converting
7 corporation; provided, however, that the articles may provide for
8 a lesser vote, but not less than a majority of the outstanding
9 shares of each class.

10 (c) If the corporation is converting into a general or limited
11 partnership or into a limited liability company, then in addition to
12 the approval of the shareholders set forth in subdivision (b), the
13 plan of conversion shall be approved by each shareholder who
14 will become a general partner or manager, as applicable, of the
15 converted entity pursuant to the plan of conversion unless the
16 shareholders have dissenters' rights pursuant to Section 1159 and
17 Chapter 13 (commencing with Section 1300).

18 (d) Upon the effectiveness of the conversion, all shareholders
19 of the converting corporation, except those that exercise
20 dissenters' rights as provided in Section 1159 and Chapter 13
21 (commencing with Section 1300), shall be deemed parties to any
22 agreement or agreements constituting the governing documents
23 for the converted entity adopted as part of the plan of conversion,
24 irrespective of whether or not a shareholder has executed the plan
25 of conversion or those governing documents for the converted
26 entity. Any adoption of governing documents made pursuant
27 thereto shall be effective at the effective time or date of the
28 conversion.

29 (e) Notwithstanding its prior approval by the board and the
30 outstanding shares or either of them, a plan of conversion may be
31 amended before the conversion takes effect if the amendment is
32 approved by the board and, if it changes any of the principal
33 terms of the plan of conversion, by the shareholders of the
34 converting corporation in the same manner and to the same
35 extent as was required for approval of the original plan of
36 conversion.

37 (f) A plan of conversion may be abandoned by the board of a
38 converting corporation, or by the shareholders of a converting
39 corporation if the abandonment is approved by the outstanding
40 shares, in each case in the same manner as required for approval

1 of the plan of conversion, subject to the contractual rights of third
2 parties, at any time before the conversion is effective.

3 (g) The converted entity shall keep the plan of conversion at
4 (1) the principal place of business of the converted entity if the
5 converted entity is a domestic partnership or (2) at the office at
6 which records are to be kept under Section 15614 or Section
7 15901.11 if the converted entity is a domestic limited partnership
8 or at the office at which records are to be kept under Section
9 17057 if the converted entity is a domestic limited liability
10 company. Upon the request of a shareholder of a converting
11 corporation, the authorized person on behalf of the converted
12 entity shall promptly deliver to the shareholder, at the expense of
13 the converted entity, a copy of the plan of conversion. A waiver
14 by a shareholder of the rights provided in this subdivision shall
15 be unenforceable.

16 SEC. 4. Section 1157 of the Corporations Code is amended to
17 read:

18 1157. (a) An other business entity or a foreign other business
19 entity or a foreign corporation may be converted into a
20 corporation pursuant to this chapter only if the converting entity
21 is authorized by the laws under which it is organized to effect the
22 conversion.

23 (b) An other business entity or a foreign other business entity
24 or a foreign corporation that desires to convert into a corporation
25 shall approve a plan of conversion or other instrument as is
26 required to be approved to effect the conversion pursuant to the
27 laws under which that entity is organized.

28 (c) The conversion of an other business entity or a foreign
29 other business entity or a foreign corporation shall be approved
30 by the number or percentage of the partners, members,
31 shareholders, or other holders of interest of the converting entity
32 that is required by the laws under which that entity is organized,
33 or a greater or lesser percentage as may be set forth in the
34 converting entity's partnership agreement, articles of
35 organization, operating agreement, articles of incorporation or
36 other governing document in accordance with applicable laws.

37 (d) The conversion by an other business entity or a foreign
38 other business entity or a foreign corporation shall be effective
39 under this chapter upon the filing with the Secretary of State of
40 the articles of incorporation of the converted corporation,

1 containing a statement of conversion that complies with
2 subdivision (e).

3 (e) A statement of conversion of an entity converting into a
4 corporation pursuant to this chapter shall set forth all of the
5 following:

6 (1) The name, form, and jurisdiction of organization of the
7 converting entity.

8 (2) The Secretary of State's file number, if any, of the
9 converting entity.

10 (3) If the converting entity is a foreign other business entity or
11 a foreign corporation, the statement of conversion shall contain
12 the following:

13 (A) A statement that the converting entity is authorized to
14 effect the conversion by the laws under which it is organized.

15 (B) A statement that the converting entity has approved a plan
16 of conversion or other instrument as is required to be approved to
17 effect the conversion pursuant to the laws under which the
18 converting entity is organized.

19 (C) A statement that the conversion has been approved by the
20 number or percentage of the partners, members, shareholders, or
21 other holders of interest of the converting entity that is required
22 by the laws under which that entity is organized, or a greater or
23 lesser percentage as may be set forth in the converting entity's
24 partnership agreement, articles of organization, operating
25 agreement, articles of incorporation, or other governing
26 document in accordance with applicable laws.

27 (f) The filing with the Secretary of State of articles of
28 incorporation containing a statement pursuant to subdivision (e)
29 shall have the effect of the filing of a certificate of cancellation
30 by a converting foreign limited liability company or foreign
31 limited partnership, and no converting foreign limited liability
32 company or foreign limited partnership that has made the filing is
33 required to file a certificate of cancellation under Section 15696,
34 Section 15909.06, or *Section 17455* as a result of that conversion.
35 If a converting entity is a foreign corporation qualified to transact
36 business in this state, the foreign corporation shall, by virtue of
37 the filing, automatically surrender its right to transact intrastate
38 business.

39 SEC. 5. Section 15534 is added to the Corporations Code, to
40 read:

15534. This chapter shall be repealed on January 1, 2008.

SEC. 6. Section 15724 is added to the Corporations Code, to read:

15724. This chapter shall be repealed on January 1, 2008.

SEC. 7. Chapter 1 (commencing with Section 15900) is added to Title 2 of the Corporations Code, to read:

CHAPTER 1. UNIFORM LIMITED PARTNERSHIP ACT OF 2005

Article 1. General Provisions

15900. This chapter may be cited as the Uniform Limited Partnership Act of 2005.

15901.02. In this chapter, the following terms have the following meanings:

(a) *“Acknowledged” means that an instrument is either of the following:*

(1) *Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code.*

(2) *Executed to include substantially the following wording preceding the signature: “It is hereby declared that I am the person who executed this instrument, which execution is my act and deed. Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated.”*

(b) *“Certificate of limited partnership” means the certificate required by Section 15902.01. The term includes the certificate as amended or restated.*

~~(b)~~

(c) *“Contribution,” except in the phrase “right of contribution,” means any benefit provided by a person to a limited partnership in order to become a partner or in the person’s capacity as a partner.*

~~(e)~~

(d) *“Debtor in bankruptcy” means a person that is the subject of:*

(1) *an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or*

1 (2) a comparable order under federal, state, or foreign law
2 governing insolvency.

3 ~~(d)~~

4 (e) “Designated office” means:

5 (1) with respect to a limited partnership, the office that the
6 limited partnership is required to designate and maintain under
7 Section 15901.14; and

8 (2) with respect to a foreign limited partnership, its principal
9 office.

10 ~~(e)~~

11 (f) “Distribution” means a transfer of money or other property
12 from a limited partnership to a partner in the partner’s capacity as
13 a partner or to a transferee on account of a transferable interest
14 owned by the transferee.

15 ~~(f)~~

16 (g) “*Domestic corporation*” means a corporation formed
17 under the laws of this state.

18 (h) “*Electronic transmission by the partnership*” means a
19 communication that meets both of the following requirements:

20 (1) It is delivered by any of the following means:

21 (A) Facsimile transmission or electronic mail when directed to
22 the facsimile number or electronic mail address, respectively, for
23 the recipient on the record with the partnership.

24 (B) Posting on an electronic message board or other
25 electronic database, that the partnership has designated for the
26 communication, together with a separate notice to the recipient
27 of the posting, which shall be validly delivered upon the later of
28 either the posting or delivery of the separate notice thereof.

29 (C) Other means of electronic communication.

30 (2) It is to a recipient that has provided an unrevoked consent
31 to the use of the means of transmission used by the partnership in
32 the electronic transmission.

33 (i) “*Electronic transmission to the partnership*” means a
34 communication that meets both of the following requirements:

35 (1) It is delivered by any of the following means:

36 (A) Facsimile communication or other electronic mail when
37 directed to the facsimile number or electronic mail address,
38 respectively, that the partnership has provided from time to time
39 to the partners for sending communications to the partnership.

1 (B) *Posting on an electronic message board or electronic*
2 *database that the partnership has designated for the*
3 *communication. A transmission shall have been validly delivered*
4 *upon the posting.*

5 (C) *Other means of electronic communication.*

6 (2) *It is a communication as to which the partnership has*
7 *placed in effect reasonable measures to verify that the sender is*
8 *the partner purporting to send the transmission, either in person*
9 *or by proxy.*

10 (j) “Foreign limited liability limited partnership” means a
11 foreign limited partnership whose general partners have limited
12 liability for the obligations of the foreign limited partnership
13 under a provision similar to subdivision (c) of Section 15904.04.

14 ~~(g)~~

15 (k) “Foreign limited partnership” means a partnership formed
16 under the laws of a jurisdiction other than this state and required
17 by those laws to have one or more general partners and one or
18 more limited partners. The term includes a foreign limited
19 liability limited partnership.

20 ~~(h)~~

21 (l) “Foreign other business entity” means another business
22 entity formed under the laws of any state other than this state or
23 under the laws of a foreign country.

24 (m) “General partner” means:

25 (1) with respect to a limited partnership, a person that:

26 (A) becomes a general partner under Section 15904.01; or

27 (B) was a general partner in a limited partnership when the
28 limited partnership became subject to this chapter under
29 subdivisions (a) or (b) of Section 15912.06; and

30 (2) with respect to a foreign limited partnership, a person that
31 has rights, powers, and obligations similar to those of a general
32 partner in a limited partnership.

33 ~~(i)~~

34 (n) “Interests of all partners” means the aggregate interests of
35 all partners in the current profits derived from business
36 operations of the partnership.

37 (o) “Interests of limited partners” means the aggregate
38 interests of all limited partners in their respective capacities as
39 limited partners in the current profits derived from business
40 operations of the partnership.

1 (p) “Limited liability limited partnership,” except in the phrase
2 “foreign limited liability limited partnership,” means a limited
3 partnership whose certificate of limited partnership states that the
4 limited partnership is a limited liability limited partnership.

5 ~~(j)~~

6 (q) “Limited partner” means:

7 (1) with respect to a limited partnership, a person that:

8 (A) becomes a limited partner under Section 15903.01; or

9 (B) was a limited partner in a limited partnership when the
10 limited partnership became subject to this chapter under
11 subdivisions (a) or (b) of Section 15912.06; and

12 (2) with respect to a foreign limited partnership, a person that
13 has rights, powers, and obligations similar to those of a limited
14 partner in a limited partnership.

15 ~~(k)~~

16 (r) “Limited partnership,” except in the phrases “foreign
17 limited partnership” and “foreign limited liability limited
18 partnership,” means an entity, having one or more general
19 partners and one or more limited partners, which is formed under
20 this chapter by two or more persons or becomes subject to this
21 chapter under Article 11 (commencing with Section 15911.01) or
22 subdivisions (a) or (b) of Section 15912.06. The term includes a
23 limited liability limited partnership.

24 ~~(t)~~

25 (s) “Mail” means first-class mail, postage prepaid, unless
26 registered mail is specified. Registered mail includes certified
27 mail.

28 (t) “Majority in interest of all partners” means more than 50
29 percent of the interests of all partners.

30 (u) “Majority in interest of the limited partners” means more
31 than 50 percent of the interests of limited partners.

32 (v) “Other business entity” means a corporation, general
33 partnership, limited liability company, business trust, real estate
34 investment trust, or an unincorporated association other than a
35 nonprofit association, but excludes a limited partnership.

36 (w) “Parent” of a specified limited partnership means any of
37 the following:

38 (1) A general partner of the limited partnership.

1 (2) *A person possessing, directly or indirectly, the power to*
2 *direct or cause the direction of the management and policies of a*
3 *general partner of the limited partnership.*

4 (3) *A person owning, directly or indirectly, limited partnership*
5 *interests possessing more than 50 percent of the aggregate voting*
6 *power of the specified limited partnership.*

7 (x) “Partner” means a limited partner or general partner.

8 ~~(m)~~

9 (y) “Partnership agreement” means the partners’ agreement,
10 whether oral, implied, in a record, or in any combination,
11 concerning the limited partnership. The term includes the
12 agreement as amended.

13 ~~(n) “Person” means an individual, corporation, business trust,~~
14 ~~estate, trust, partnership, limited liability company, association,~~
15 ~~joint venture, government, governmental subdivision, agency or~~
16 ~~instrumentality, public corporation, or any other legal or~~
17 ~~commercial entity.~~

18 ~~(o)~~

19 (z) “Person” means an individual, partnership, limited
20 partnership, trust, estate, association, corporation, limited
21 liability company, or other entity, whether domestic or foreign.

22 (aa) “Person dissociated as a general partner” means a person
23 dissociated as a general partner of a limited partnership.

24 ~~(p)~~

25 (bb) “Principal office” means the office where the principal
26 executive office of a limited partnership or foreign limited
27 partnership is located, whether or not the office is located in this
28 state.

29 ~~(q)~~

30 (cc) “Proxy” means a written authorization signed by a
31 partner or the partner’s attorney in fact giving another person
32 the power to vote with respect to the interest of that partner.
33 “Signed,” for the purpose of this subdivision, means the placing
34 of the partner’s name on the proxy, whether by manual
35 signature, typewriting, telegraphic transmission, or otherwise, by
36 the partner or the partner’s attorney in fact.

37 (dd) “Record” means information that is inscribed on a
38 tangible medium or that is stored in an electronic or other
39 medium and is retrievable in perceivable form.

40 ~~(r)~~

1 (ee) “Required information” means the information that a
2 limited partnership is required to maintain under Section
3 15901.11.

4 ~~(s)~~

5 (ff) “Return of capital” means any distribution to a partner to
6 the extent that the partner’s capital account, immediately after
7 the distribution, is less than the amount of that partner’s
8 contributions to the partnership, as reduced by prior
9 distributions that were a return of capital.

10 (gg) “Sign” means:

11 (1) to execute or adopt a tangible symbol with the present
12 intent to authenticate a record; or

13 (2) to attach or logically associate an electronic symbol,
14 sound, or process to or with a record with the present intent to
15 authenticate the record.

16 ~~(t)~~

17 (hh) “State” means a state of the United States, the District of
18 Columbia, Puerto Rico, the United States Virgin Islands, or any
19 territory or insular possession subject to the jurisdiction of the
20 United States.

21 ~~(u)~~

22 (ii) “Time a notice is given or sent,” unless otherwise
23 expressly provided, means any of the following:

24 (1) The time a written notice to a partner or the limited
25 partnership is deposited in the United States mails.

26 (2) The time any other written notice is personally delivered to
27 the recipient, is delivered to a common carrier for transmission,
28 or is actually transmitted by the person giving the notice by
29 electronic means to the recipient.

30 (3) The time any oral notice is communicated, in person or by
31 telephone or wireless, to the recipient or to a person at the office
32 of the recipient who the person giving the notice has reason to
33 believe will promptly communicate it to the recipient.

34 (jj) (1) “Transact intrastate business” means entering into
35 repeated and successive transactions of business in this state,
36 other than interstate or foreign commerce.

37 (2) A foreign limited partnership shall not be considered to be
38 transacting intrastate business within the meaning of paragraph
39 (1) solely because of its status as one or more of the following:

1 (A) A shareholder of a foreign corporation transacting
2 intrastate business.

3 (B) A shareholder of a domestic corporation.

4 (C) A limited partner of a foreign limited partnership
5 transacting intrastate business.

6 (D) A limited partner of a domestic limited partnership.

7 (E) A member or manager of a foreign limited liability
8 company transacting intrastate business.

9 (F) A member or manager of a domestic limited liability
10 company.

11 (3) Without excluding other activities that may not constitute
12 transacting intrastate business, a foreign limited partnership
13 shall not be considered to be transacting intrastate business
14 within the meaning of paragraph (1) solely by reason of carrying
15 on in this state one or more of the following activities:

16 (A) Maintaining or defending any action or suit or any
17 administrative or arbitration proceeding, or effecting the
18 settlement thereof or the settlement of claims and disputes.

19 (B) Holding meetings of its partners or carrying on other
20 activities concerning its internal affairs.

21 (C) Maintaining bank accounts.

22 (D) Maintaining offices or agencies for the transfer, exchange,
23 and registration of its securities or depositories with relation to
24 its securities.

25 (E) Effecting sales through independent contractors.

26 (F) Soliciting or procuring orders, whether by mail or through
27 employees or agents or otherwise, where the orders require
28 acceptance without this state before becoming binding contracts.

29 (G) Creating or acquiring evidences of debt or mortgages,
30 liens, or security interests on real or personal property.

31 (H) Securing or collecting debts or enforcing mortgages and
32 security interests in property securing the debts.

33 (I) Conducting an isolated transaction completed within a
34 period of 180 days and not in the course of a number of repeated
35 transactions of like nature.

36 (4) A person shall not be deemed to be transacting intrastate
37 business in this state within the meaning of paragraph (1) solely
38 because of the person's status as a limited partner of a domestic
39 limited partnership or a foreign limited partnership registered to
40 transact intrastate business in this state.

1 (kk) “Transfer” includes an assignment, conveyance, deed, bill
2 of sale, lease, mortgage, creation of a security interest or
3 encumbrance, gift, and transfer by operation of law.

4 ~~(v)~~

5 (ll) “Transferable interest” means a partner’s right to receive
6 distributions.

7 ~~(w)~~

8 (mm) “Transferee” means a person to which all or part of a
9 transferable interest has been transferred, whether or not the
10 transferor is a partner.

11 15901.03. (a) A person knows a fact if the person has actual
12 knowledge of it.

13 (b) A person has notice of a fact if the person:

14 (1) knows of it;

15 (2) has received a notification of it;

16 (3) has reason to know it exists from all of the facts known to
17 the person at the time in question; or

18 (4) has notice of it under subdivision (c) or (d).

19 (c) A certificate of limited partnership on file in the office of
20 the Secretary of State is notice that the partnership is a limited
21 partnership and the persons designated in the certificate as
22 general partners are general partners. Except as otherwise
23 provided in subdivision (d), the certificate is not notice of any
24 other act.

25 (d) A person has notice of:

26 (1) another person’s dissociation as a general partner, 90 days
27 after the effective date of an amendment to the certificate of
28 limited partnership which states that the other person has
29 dissociated or 90 days after the effective date of a ~~statement~~
30 *certificate* of dissociation pertaining to the other person,
31 whichever occurs first;

32 (2) a limited partnership’s dissolution, 90 days after the
33 effective date of an amendment to the certificate of limited
34 partnership stating that the limited partnership is dissolved;

35 (3) a limited partnership’s termination, 90 days after the
36 effective date of a ~~statement of termination~~ *certificate of*
37 *cancellation*;

38 (4) a limited partnership’s conversion under Article 11
39 (commencing with Section ~~15911.01~~) 15911.10), 90 days after
40 the effective date of the ~~articles~~ *certificate* of conversion; or

1 (5) a merger under Article 11 (commencing with Section
2 ~~15911.01~~ 15911.10), 90 days after the effective date of the
3 ~~articles~~ *certificate* of merger.

4 (e) A person notifies or gives a notification to another person
5 by taking steps reasonably required to inform the other person in
6 ordinary course, whether or not the other person learns of it.

7 (f) A person receives a notification when the notification:

8 (1) comes to the person's attention; or

9 (2) is delivered at the person's place of business or at any
10 other place held out by the person as a place for receiving
11 communications.

12 (g) Except as otherwise provided in subdivision (h), a person
13 other than an individual knows, has notice, or receives a
14 notification of a fact for purposes of a particular transaction when
15 the individual conducting the transaction for the person knows,
16 has notice, or receives a notification of the fact, or in any event
17 when the fact would have been brought to the individual's
18 attention if the person had exercised reasonable diligence. A
19 person other than an individual exercises reasonable diligence if
20 it maintains reasonable routines for communicating significant
21 information to the individual conducting the transaction for the
22 person and there is reasonable compliance with the routines.
23 Reasonable diligence does not require an individual acting for the
24 person to communicate information unless the communication is
25 part of the individual's regular duties or the individual has reason
26 to know of the transaction and that the transaction would be
27 materially affected by the information.

28 (h) A general partner's knowledge, notice, or receipt of a
29 notification of a fact relating to the limited partnership is
30 effective immediately as knowledge of, notice to, or receipt of a
31 notification by the limited partnership, except in the case of a
32 fraud on the limited partnership committed by or with the
33 consent of the general partner. A limited partner's knowledge,
34 notice, or receipt of a notification of a fact relating to the limited
35 partnership is not effective as knowledge of, notice to, or receipt
36 of a notification by the limited partnership.

37 15901.04. (a) A limited partnership is an entity distinct from
38 its partners. A limited partnership is the same entity regardless of
39 an amendment to its certificate which adds or deletes a statement

1 that the limited partnership is a limited liability limited
2 partnership.

3 (b) A limited partnership may be organized under this chapter
4 for any lawful purpose.

5 (c) A limited partnership has a perpetual duration.

6 15901.05. A limited partnership has the powers to do all
7 things necessary or convenient to carry on its activities, including
8 the power to sue, be sued, and defend in its own name and to
9 maintain an action against a partner for harm caused to the
10 limited partnership by a breach of the partnership agreement or
11 violation of a duty to the partnership.

12 15901.06. The law of this state governs relations among the
13 partners of a limited partnership and between the partners and the
14 limited partnership and the liability of partners as partners for an
15 obligation of the limited partnership.

16 15901.07. (a) Unless displaced by particular provisions of
17 this chapter, the principles of law and equity supplement this
18 chapter.

19 (b) If an obligation to pay interest arises under this chapter and
20 the rate is not specified, the rate is that specified in Section 3289
21 of the Civil Code.

22 15901.08. (a) The name of a limited partnership may contain
23 the name of any partner.

24 (b) The name of a limited partnership that is not a limited
25 liability limited partnership must contain the phrase “limited
26 partnership” or the abbreviation “L.P.” or “LP” and may not
27 contain the phrase “limited liability limited partnership” or the
28 abbreviation “LLLP” or “L.L.L.P.”

29 (c) The name of a limited liability limited partnership must
30 contain the phrase “limited liability limited partnership” or the
31 abbreviation “LLLP” or “L.L.L.P.” and must not contain the
32 abbreviation “L.P.” or “LP.”

33 (d) Unless authorized by subdivision (e), the name of a limited
34 partnership must be distinguishable in the records of the
35 Secretary of State from:

36 ~~(1) the name of each person other than an individual~~
37 ~~incorporated, organized, or authorized to transact business in this~~
38 ~~state; and~~

1 (1) *The name of any limited partnership that has previously*
2 *filed a certificate pursuant to Section 15902.01 or any foreign*
3 *limited partnership registered pursuant to Section 15909.01; and*

4 (2) each name reserved under Section 15901.09.

5 (e) A limited partnership may apply to the Secretary of State
6 for authorization to use a name that does not comply with
7 subdivision (d). The Secretary of State shall authorize use of the
8 name applied for if, as to each conflicting name:

9 (1) the present user, registrant, or owner of the conflicting
10 name consents in a signed record to the use and submits an
11 undertaking in a form satisfactory to the Secretary of State to
12 change the conflicting name to a name that complies with
13 subdivision (d) and is distinguishable in the records of the
14 Secretary of State from the name applied for;

15 (2) the applicant delivers to the Secretary of State a certified
16 copy of the final judgment of a court of competent jurisdiction
17 establishing the applicant's right to use in this state the name
18 applied for; or

19 (3) the applicant delivers to the Secretary of State proof
20 satisfactory to the Secretary of State that the present user,
21 registrant, or owner of the conflicting name:

22 (A) has merged into the applicant;

23 (B) has been converted into the applicant; or

24 (C) has transferred substantially all of its assets, including the
25 conflicting name, to the applicant.

26 (f) Subject to Section 15909.05, this section applies to any
27 foreign limited partnership transacting business in this state,
28 having a certificate of ~~authority~~ *registration* to transact business
29 in this state, or applying for a certificate of ~~authority~~ *registration*.

30 (g) The name of a limited partnership may not contain the
31 words "bank," "insurance," "trust," "trustee," "incorporated,"
32 "inc.," "corporation" or "corp."

33 15901.09. (a) The exclusive right to the use of a name that
34 complies with Section 15901.08 may be reserved by:

35 (1) a person intending to organize a limited partnership under
36 this chapter and to adopt the name;

37 (2) a limited partnership or a foreign limited partnership
38 authorized to transact business in this state intending to adopt the
39 name;

1 (3) a foreign limited partnership intending to obtain a
2 certificate of ~~authority~~ *registration* to transact business in this
3 state and adopt the name;

4 (4) a person intending to organize a foreign limited partnership
5 and intending to have it obtain a certificate of ~~authority~~
6 *registration* to transact business in this state and adopt the name;

7 (5) a foreign limited partnership formed under the name; or

8 (6) a foreign limited partnership formed under a name that
9 does not comply with subdivisions (b) or (c) of Section
10 15901.08, but the name reserved under this paragraph may differ
11 from the foreign limited partnership's name only to the extent
12 necessary to comply with subdivisions (b) or (c) of Section
13 15901.08.

14 (b) A person may apply to reserve a name under subdivision
15 (a) by delivering to the Secretary of State an application that
16 states the name to be reserved and the paragraph of subdivision
17 (a) which applies. If the Secretary of State finds that the name is
18 available for use by the applicant, the Secretary of State shall
19 issue a ~~statement~~ *certificate* of name reservation and thereby
20 reserve the name for the exclusive use of the applicant for a ~~120~~
21 *60* days.

22 (c) An applicant that has reserved a name pursuant to
23 subdivision (b) may reserve the same name for *an* additional
24 ~~120-day periods. A person having a current reservation for a~~
25 ~~name may not apply for another 120-day period for the same~~
26 ~~name until 90 days have elapsed in the current reservation.~~
27 *60-day period. The Secretary of State shall not issue a certificate*
28 *reserving the same name for two or more consecutive 60-day*
29 *periods to the same applicant or for the use or benefit of the*
30 *same person.*

31 (d) A person that has reserved a name under this section may
32 transfer the reserved name to another person, effective upon
33 delivery to the Secretary of State of a notice of transfer that states
34 the reserved name, the name and ~~street and mailing~~ address of
35 the person to which the reservation is to be transferred, and the
36 paragraph of subdivision (a) which applies to the other person.

37 15901.10. (a) Except as otherwise provided in subdivision
38 (b), the partnership agreement governs relations among the
39 partners and between the partners and the partnership. To the
40 extent the partnership agreement does not otherwise provide, this

1 chapter governs relations among the partners and between the
2 partners and the partnership.

3 (b) A partnership agreement may not:

4 (1) vary a limited partnership's power under Section 15901.05
5 to sue, be sued, and defend in its own name;

6 (2) vary the law applicable to a limited partnership under
7 Section 15901.06;

8 (3) vary the requirements of Section 15902.04;

9 (4) vary the information required under Section 15901.11 or
10 unreasonably restrict the right to information under Section
11 15903.04 or 15904.07, but the partnership agreement may
12 impose reasonable restrictions on the availability and use of
13 information obtained under those sections and may define
14 appropriate remedies, including liquidated damages, for a breach
15 of any reasonable restriction on use;

16 (5) eliminate the duty of loyalty under Section 15904.08, but
17 the partnership agreement may:

18 (A) identify specific types or categories of activities that do
19 not violate the duty of loyalty, if not manifestly unreasonable;
20 and

21 (B) specify the number or percentage of partners which may
22 authorize or ratify, after full disclosure to all partners of all
23 material facts, a specific act or transaction that otherwise would
24 violate the duty of loyalty;

25 (6) unreasonably reduce the duty of care under subdivision (c)
26 of Section 15904.08;

27 (7) eliminate the obligation of good faith and fair dealing
28 under subdivision (b) of Section 15903.05 and subdivision (d) of
29 Section 15904.08, but the partnership agreement may prescribe
30 the standards by which the performance of the obligation is to be
31 measured, if the standards are not manifestly unreasonable;

32 (8) vary the power of a person to dissociate as a general
33 partner under subdivision (a) of Section 15906.04 except to
34 require that the notice under subdivision (a) of Section 15906.03
35 be in a record;

36 (9) eliminate the power of a court to decree dissolution in the
37 circumstances specified in subdivision (a) of Section 15908.02;

38 (10) vary the requirement to wind up the partnership's
39 business as specified in Section 15908.03;

(11) unreasonably restrict the right to maintain an action under Article 10 (commencing with Section 15910.01);

(12) restrict the right of a partner ~~under subdivision (a) of Section 15911.10~~ to approve a conversion or merger or the right of a general partner ~~under subdivision (b) of Section 15911.10~~ to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership;

(13) vary the provisions of Article 11.5 (commencing with Section 15911.14), except to the extent expressly permitted by such provisions; or

(14) restrict rights under this chapter of a person other than a partner or a transferee.

15901.11. A limited partnership shall maintain at its designated office the following information:

(1) a current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;

(2) a copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;

(3) a copy of any filed ~~articles~~ *certificate* of conversion or merger;

(4) a copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the six most recent years;

(5) a copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

(6) a copy of any financial statement of the limited partnership for the six most recent years;

(7) a copy of any record made by the limited partnership during the past three years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and

(8) unless contained in a partnership agreement made in a record, a record stating:

1 (A) the amount of cash, and a description and statement of the
2 agreed value of the other benefits, contributed and agreed to be
3 contributed by each partner;

4 ~~(B)~~

5 (B) (1) the times at which, or events on the happening of
6 which, any additional contributions agreed to be made by each
7 partner are to be made;

8 (C) for any person that is both a general partner and a limited
9 partner, a specification of what transferable interest the person
10 owns in each capacity; and

11 (D) any events upon the happening of which the limited
12 partnership is to be dissolved and its activities wound up.

13 15901.12. A partner may lend money to and transact other
14 business with the limited partnership and has the same rights and
15 obligations with respect to the loan or other transaction as a
16 person that is not a partner.

17 15901.13. A person may be both a general partner and a
18 limited partner. A person that is both a general and limited
19 partner has the rights, powers, duties, and obligations provided
20 by this chapter and the partnership agreement in each of those
21 capacities. When the person acts as a general partner, the person
22 is subject to the obligations, duties and restrictions under this
23 chapter and the partnership agreement for general partners. When
24 the person acts as a limited partner, the person is subject to the
25 obligations, duties and restrictions under this chapter and the
26 partnership agreement for limited partners.

27 15901.14. (a) A limited partnership shall designate and
28 continuously maintain in this state:

29 (1) an office, which need not be a place of its activity in this
30 state; and

31 (2) an agent for service of process.

32 (b) A foreign limited partnership shall designate and
33 continuously maintain in this state an agent for service of
34 process. ~~(c)~~

35 (c) An agent for service of process of a limited partnership or
36 foreign limited partnership must be an individual who is a
37 resident of this state or ~~other person authorized to do business a~~
38 *corporation that has complied with Section 1505 of the*
39 *Corporations Code and whose capacity to act as an agent has*
40 *not terminated. If an individual is designated, the statement shall*

1 *set forth that person's complete business or residence address in*
2 *this state.*

3 ~~15901.15. (a) In order to change its designated office, agent~~
4 ~~for service of process, or the address of its agent for service of~~
5 ~~process, a limited partnership or a foreign limited partnership~~
6 ~~may deliver to the Secretary of State for filing a statement of~~
7 ~~change containing:~~

8 ~~(1) the name of the limited partnership or foreign limited~~
9 ~~partnership;~~

10 ~~(2) the street and mailing address of its current designated~~
11 ~~office;~~

12 ~~(3) if the current designated office is to be changed, the street~~
13 ~~and mailing address of the new designated office;~~

14 ~~(4) the name and street and mailing address of its current agent~~
15 ~~for service of process; and~~

16 ~~(5) if the current agent for service of process or an address of~~
17 ~~the agent is to be changed, the new information.~~

18 ~~(b) Subject to subdivision (c) of Section 15902.06, a statement~~
19 ~~of change is effective when filed by the Secretary of State.~~

20 ~~15901.16. (a) In order to resign as an agent for service of~~
21 ~~process of a limited partnership or foreign limited partnership,~~
22 ~~the agent must deliver to the Secretary of State for filing a~~
23 ~~statement of resignation containing the name of the limited~~
24 ~~partnership or foreign limited partnership.~~

25 ~~(b) After receiving a statement of resignation, the Secretary of~~
26 ~~State shall file it and mail a copy to the designated office of the~~
27 ~~limited partnership or foreign limited partnership and another~~
28 ~~copy to the principal office if the address of the office appears in~~
29 ~~the records of the Secretary of State and is different from the~~
30 ~~address of the designated office.~~

31 ~~(c) An agency for service of process is terminated on the 31st~~
32 ~~day after the Secretary of State files the statement of resignation.~~

33 ~~15901.17. (a) An agent for service of process appointed by a~~
34 ~~limited partnership or foreign limited partnership is an agent of~~
35 ~~the limited partnership or foreign limited partnership for service~~
36 ~~of any process, notice, or demand required or permitted by law to~~
37 ~~be served upon the limited partnership or foreign limited~~
38 ~~partnership.~~

39 ~~(b) If a limited partnership or foreign limited partnership does~~
40 ~~not appoint or maintain an agent for service of process in this~~

1 ~~state or the agent for service of process cannot with reasonable~~
2 ~~diligence be found at the agent's address, the Secretary of State is~~
3 ~~an agent of the limited partnership or foreign limited partnership~~
4 ~~upon whom process, notice, or demand may be served.~~

5 ~~(e) Service of any process, notice, or demand on the Secretary~~
6 ~~of State may be made by delivering to and leaving with the~~
7 ~~Secretary of State duplicate copies of the process, notice, or~~
8 ~~demand. If a process, notice, or demand is served on the~~
9 ~~Secretary of State, the Secretary of State shall forward one of the~~
10 ~~copies by registered or certified mail, return receipt requested, to~~
11 ~~the limited partnership or foreign limited partnership at its~~
12 ~~designated office.~~

13 ~~(d) Service is effected under subdivision (c) at the earliest of:~~

14 ~~(1) the date the limited partnership or foreign limited~~
15 ~~partnership receives the process, notice, or demand;~~

16 ~~(2) the date shown on the return receipt, if signed on behalf of~~
17 ~~the limited partnership or foreign limited partnership; or~~

18 ~~(3) five days after the process, notice, or demand is deposited~~
19 ~~in the mail, if mailed postpaid and correctly addressed.~~

20 ~~(e) The Secretary of State shall keep a record of each process,~~
21 ~~notice, and demand served pursuant to this section and record the~~
22 ~~time of, and the action taken regarding, the service.~~

23 ~~(f) This section does not affect the right to serve process,~~
24 ~~notice, or demand in any other manner provided by law.~~

25 15901.18. Action requiring the consent of partners under this
26 chapter may be taken without a meeting, and a partner may
27 appoint a proxy to consent or otherwise act for the partner by
28 signing an appointment record, either personally or by the
29 partner's attorney in fact.

30 15901.19. (a) In addition to Chapter 4 (commencing with
31 Section 413.10) of Title 5 of Part 2 of the Code of Civil
32 Procedure, process may be served upon limited partnerships and
33 foreign limited partnerships as provided in this Section.

34 (b) Personal service of a copy of any process against the
35 limited partnership or the foreign limited partnership by delivery
36 (1) to any individual designated by it as agent or, if a limited
37 partnership, to any general partner or (2) if the designated agent
38 or, if a limited partnership, general partner is a corporation, to
39 any person named in the latest certificate of the corporate agent
40 filed pursuant to Section 1505 of the Corporations Code at the

1 office of the corporate agent or to any officer of the general
2 partner, shall constitute valid service on the limited partnership
3 or the foreign limited partnership. No change in the address of
4 the agent for service of process or appointment of a new agent
5 for service of process shall be effective (1) for a limited
6 partnership until an amendment to the certificate of limited
7 partnership is filed or (2) for a foreign limited partnership until
8 an amendment to the application for ~~certificate of authority~~
9 *registration* is filed. In the case of a foreign limited partnership
10 that has appointed the Secretary of State as agent for service of
11 process by reason of subdivision (e) of Section 15909.07, process
12 shall be delivered by hand to the Secretary of State, or to any
13 person employed in the capacity of assistant or deputy, which
14 shall be one copy of the process for each defendant to be served,
15 together with a copy of the court order authorizing the service
16 and the fee therefor. The order shall include and set forth an
17 address to which such process shall be sent by the Secretary of
18 State.

19 (c) (1) If an agent for service of process has resigned and has
20 not been replaced or if the agent designated cannot with
21 reasonable diligence be found at the address designated for
22 personal delivery of the process, and it is shown by affidavit to
23 the satisfaction of the court that process against a limited
24 partnership or foreign limited partnership cannot be served with
25 reasonable diligence upon the designated agent or, if a foreign
26 limited partnership, upon any general partner by hand in the
27 manner provided in Section 415.10, subdivision (a) of Section
28 415.20 or subdivision (a) of Section 415.30, of the Code of Civil
29 Procedure, the court may make an order that the service shall be
30 made upon a domestic limited partnership which has filed a
31 certificate or upon a foreign limited partnership which has a
32 certificate of ~~authority~~ *registration* to transact business in this
33 state by delivering by hand to the Secretary of State, or to any
34 person employed in the Secretary of State's office in the capacity
35 of assistant or deputy, one copy of the process for each defendant
36 to be served, together with a copy of the order authorizing the
37 service. Service in this manner shall be deemed complete on the
38 10th day after delivery of the process to the Secretary of State.

39 (2) Upon receipt of any such copy of process and the fee
40 therefor, the Secretary of State shall give notice of the service of

1 the process to the limited partnership or foreign limited
2 partnership, at its principal-~~executive~~ office, by forwarding to
3 that office, by registered mail with request for return receipt, the
4 copy of the process.

5 (3) The Secretary of State shall keep a record of all process
6 served upon the Secretary of State under this chapter and shall
7 record therein the time of service and the Secretary of State's
8 action with reference thereto. A certificate under the Secretary of
9 State's official seal, certifying to the receipt of process, the
10 giving of notice thereof to the limited partnership or foreign
11 limited partnership, and the forwarding of the process pursuant to
12 this section, shall be competent and prima facie evidence of the
13 matters stated therein.

14 (d) (1) The certificate of a limited partnership and the
15 application for a certificate of ~~authority~~ *registration* of a foreign
16 limited partnership shall designate, as the agent for service of
17 process, an individual residing in this state or a corporation
18 which has complied with Section 1505 of the Corporations Code
19 and whose capacity to act as an agent has not terminated. If an
20 individual is designated, the statement shall set forth that
21 person's complete business or residence address in this state.

22 (2) An agent designated for service of process may file with
23 the Secretary of State a signed and acknowledged written
24 statement of resignation as an agent. Thereupon the authority of
25 the agent to act in that capacity shall cease and the Secretary of
26 State forthwith shall give written notice of the filing of the
27 ~~statement~~ *certificate* of resignation by mail to the limited
28 partnership or foreign limited partnership addressed to its
29 principal-~~executive~~ office.

30 (3) If an individual who has been designated agent for service
31 of process dies or resigns or no longer resides in the state or if the
32 corporate agent for that purpose, resigns, dissolves, withdraws
33 from the state, forfeits its right to transact intrastate business, has
34 its corporate rights, powers and privileges suspended or ceases to
35 exist, (A) the limited partnership shall promptly file an
36 amendment to the certificate designating a new agent or (B) the
37 foreign limited partnership shall promptly file an amendment to
38 the application for ~~certificate of authority~~ *registration*.

39 (e) In addition to any other discovery rights which may exist,
40 in any case pending in a California court having jurisdiction in

1 which a party seeks records from a partnership formed under this
2 chapter, whether or not the partnership is a party, the court shall
3 have the power to order the production in California of the books
4 and records of the partnership on the terms and conditions that
5 the court deems appropriate.

6 15901.20. (a) A partner may, in a written partnership
7 agreement or other writing, consent to be subject to the
8 nonexclusive jurisdiction of the courts of a specified jurisdiction,
9 or the exclusive jurisdiction of the courts of this state.

10 (b) If a partner desires to use the arbitration process, that
11 partner may in a written partnership agreement or other writing,
12 consent to be nonexclusively subject to arbitration in a specified
13 state, or to be exclusively subject to arbitration in this state.

14 (c) Along with this consent to the jurisdiction of courts or
15 arbitration, a partner may consent to be served with legal process
16 in the manner prescribed in the partnership agreement or other
17 writing.

18
19 Article 2. Formation; Certificate of Limited Partnership and
20 Other Filings
21

22 15902.01. (a) In order for a limited partnership to be formed,
23 a certificate of limited partnership must be filed *with and on a*
24 *form prescribed* by the Secretary of State and, either before or
25 after the filing of a certificate of limited partnership, the partners
26 shall have entered into a partnership agreement. The certificate
27 must state:

28 (1) the name of the limited partnership, which must comply
29 with Section 15901.08;

30 (2) ~~the street and mailing~~ address of the initial designated
31 office and the name and ~~street and mailing~~ address of the initial
32 agent for service of process;

33 (3) the name and the ~~street and mailing~~ address of each
34 general partner;

35 (4) whether the limited partnership is a limited liability limited
36 partnership; and

37 ~~(5) any additional information required by Article 11~~
38 ~~(commencing with Section 15911.01).~~

39 (b) A certificate of limited partnership may also contain any
40 other matters but may not vary or otherwise affect the provisions

1 specified in subdivision (b) of Section 15901.10 in a manner
2 inconsistent with that section.

3 ~~(e) If there has been substantial compliance with subdivision~~
4 ~~(a), subject~~

5 *(c) Subject* to subdivision (c) of Section 15902.06 a limited
6 partnership is formed when the Secretary of State files the
7 certificate of limited partnership.

8 (d) Subject to subdivision (b), if any provision of a partnership
9 agreement is inconsistent with the filed certificate of limited
10 partnership or with a filed ~~statement of dissociation, termination,~~
11 ~~or change or filed articles certificate of dissociation,~~
12 *cancellation, or amendment or filed certificate* of conversion or
13 merger:

14 (1) the partnership agreement prevails as to partners and
15 transferees; and

16 (2) the filed certificate of limited partnership, ~~statement of~~
17 ~~dissociation, termination, or change or articles certificate of~~
18 *dissociation, cancellation, or amendment or filed certificate* of
19 conversion or merger prevail as to persons, other than partners
20 and transferees, that reasonably rely on the filed record to their
21 detriment.

22 (e) A limited partnership may record in the office of the
23 county recorder of any county in this state a certified copy of the
24 certificate of limited partnership, or any amendment thereto,
25 which has been filed by the Secretary of State. A foreign limited
26 partnership may record in the office of the county recorder of any
27 county in the state a certified copy of the application for ~~authority~~
28 *registration* to transact business, together with the certificate of
29 ~~authority registration~~, referred to in Section 15909.02, or any
30 amendment thereto, which has been filed by the Secretary of
31 State. The recording shall create a conclusive presumption in
32 favor of any bona fide purchaser or encumbrancer for value of
33 the partnership real property located in the county in which the
34 certified copy has been recorded, that the persons named as
35 general partners therein are the general partners of the
36 partnership named and that they are all of the general partners of
37 the partnership.

38 (f) The Secretary of State may cancel the filing of certificates
39 of limited partnership if a check or other remittance accepted in
40 payment of the filing fee is not paid upon presentation. For

1 partners and transferees, the partnership agreement is paramount.
2 Upon receiving written notification that the item presented for
3 payment has not been honored for payment, the Secretary of
4 State shall give a first written notice of the applicability of this
5 section to the agent for service of process or to the person
6 submitting the instrument. Thereafter, if the amount has not been
7 paid by cashier's check or equivalent, the Secretary of State shall
8 give a second written notice of cancellation and the cancellation
9 shall thereupon be effective. The second notice shall be given 20
10 days or more after the first notice and 90 days or less after the
11 original filing.

12 (g) The Secretary of State shall include with instructional
13 materials, provided in conjunction with the form for filing a
14 certificate of limited partnership under subdivision (a), a notice
15 that the filing of the certificate of limited partnership will
16 obligate the limited partnership to pay an annual tax for that
17 taxable year to the Franchise Tax Board pursuant to Section
18 17935 of the Revenue and Taxation Code. That notice shall be
19 updated annually to specify the dollar amount of the annual tax.

20 15902.02. (a) In order to amend its certificate of limited
21 partnership, a limited partnership must deliver to *and on a form*
22 *prescribed by the Secretary of State for filing an amendment or,*
23 ~~pursuant to Article 11 (commencing with Section 15911.01);~~
24 ~~articles of merger~~ stating:

25 (1) the name and the Secretary of State's file number of the
26 limited partnership; *and*

27 ~~(2) the date of filing of its initial certificate; and~~

28 ~~(3)~~

29 (2) the changes the amendment makes to the certificate as
30 most recently amended or restated.

31 (b) A limited partnership shall promptly deliver to the
32 Secretary of State for filing an amendment to a certificate of
33 limited partnership to reflect:

34 (1) the admission of a new general partner;

35 (2) the dissociation of a person as a general partner; or

36 (3) the appointment of a person to wind up the limited
37 partnership's activities under subdivisions (c) or (d) of Section
38 15908.03.

39 (c) A general partner that knows that any information in a filed
40 certificate of limited partnership was false when the certificate

1 was filed or has become false due to changed circumstances shall
2 promptly:

3 (1) cause the certificate to be amended; or

4 (2) if appropriate, deliver to the Secretary of State for filing a
5 ~~statement of change pursuant to Section 15901.15 or a statement~~
6 *an amendment or a certificate* of correction pursuant to Section
7 15902.07.

8 (d) A certificate of limited partnership may be amended at any
9 time for any other proper purpose as determined by the limited
10 partnership.

11 (e) A restated certificate of limited partnership may be
12 delivered to *and on a form prescribed by* the Secretary of State
13 for filing in the same manner as an amendment.

14 *(1) A restated certificate of limited partnership may be filed*
15 *that embodies all of the provisions that are in effect contained in*
16 *the different certificates that have been filed with the Secretary of*
17 *State.*

18 *(2) A restated certificate of limited partnership may include*
19 *an amendment of the certificate of limited partnership not*
20 *previously filed with the Secretary of State.*

21 *(3) The restated certificate of limited partnership shall*
22 *supersede the initial certificate of limited partnership and all*
23 *amendments thereto previously filed with the Secretary of State.*

24 *(4) Any amendment effected in connection with the*
25 *restatement of the certificate of limited partnership shall be*
26 *subject to any other provision of this chapter not inconsistent*
27 *with this section that would apply if a separate certificate of*
28 *amendment were filed to effect that amendment.*

29 (f) Subject to subdivision (c) of Section 15902.06, an
30 amendment or restated certificate is effective when filed by the
31 Secretary of State.

32 15902.03. A dissolved limited partnership that has completed
33 winding up may deliver to *and on a form prescribed by* the
34 Secretary of State for filing a ~~statement of termination~~ *certificate*
35 *of cancellation* that states:

36 (1) the name of the limited partnership and the Secretary of
37 State's file number;

38 (2) the date of filing of its initial certificate of limited
39 partnership; and

1 (3) any other information as determined by the general
2 partners filing the ~~statement~~ *certificate* or by a person appointed
3 pursuant to subdivisions (c) or (d) of Section 15908.03.

4 15902.04. (a) Each record delivered to the Secretary of State
5 for filing pursuant to this chapter must be signed in the following
6 manner:

7 (1) An initial certificate of limited partnership must be signed
8 by all general partners listed in the certificate.

9 (2) An amendment adding or deleting a statement that the
10 limited partnership is a limited liability partnership must be
11 signed by all general partners listed in the certificate.

12 (3) An amendment designating as general partner a person
13 admitted under paragraph (2) of subdivision (c) of Section
14 15908.01 following the dissociation of a limited partnership's
15 last general partner must be signed by that person.

16 (4) An amendment required by subdivision (c) of Section
17 15908.03 following the appointment of a person to wind up the
18 dissolved limited partnership's activities must be signed by that
19 person.

20 (5) Any other amendment must be signed by:

21 (A) at least one general partner listed in the certificate;

22 (B) each other person designated in the amendment as a new
23 general partner; and

24 (C) each person that the amendment indicates has dissociated
25 as a general partner, unless:

26 (i) the person is deceased or a guardian or general conservator
27 has been appointed for the person and the amendment so states;
28 or

29 (ii) the person has previously delivered to the Secretary of
30 State for filing a ~~statement~~ *certificate* of dissociation.

31 (6) A restated certificate of limited partnership must be signed
32 by at least one general partner listed in the certificate, and, to the
33 extent the restated certificate effects a change under any other
34 paragraph of this subdivision, the certificate must be signed in a
35 manner that satisfies that paragraph.

36 (7) A ~~statement of termination~~ *certificate of cancellation* must
37 be signed by all general partners listed in the certificate or, if the
38 certificate of a dissolved limited partnership lists no general
39 partners, by the person appointed pursuant to subdivisions (c) or

(d) of Section 15908.03 to wind up the dissolved limited partnership's activities.

(8) ~~Articles~~ *Certificates* of conversion must be signed by each general partner listed in the certificate of limited partnership.

(9) ~~Articles~~ *Certificates* of merger must be signed as provided in subdivision (a) of Section ~~15911.08~~ 15911.14.

(10) Any other record delivered on behalf of a limited partnership to the Secretary of State for filing must be signed by at least one general partner listed in the certificate.

(11) A ~~statement~~ *certificate of dissociation* by a person pursuant to paragraph (4) of subdivision (a) of Section 15906.05 stating that the person has dissociated as a general partner must be signed by that person.

(12) A ~~statement~~ *certificate* of withdrawal by a person pursuant to Section 15903.06 must be signed by that person.

(13) A record delivered on behalf of a foreign limited partnership to the Secretary of State for filing must be signed by at least one general partner of the foreign limited partnership.

(14) Any other record delivered on behalf of any person to the Secretary of State for filing must be signed by that person.

(b) Any person may sign by an attorney in fact any record to be filed pursuant to this chapter.

15902.05. (a) If a person required by this chapter to sign a record or deliver a record to the Secretary of State for filing does not do so, any other person that is aggrieved may petition the superior court to order:

- (1) the person to sign the record;
- (2) deliver the record to the Secretary of State for filing; or
- (3) the Secretary of State to file the record unsigned.

(b) If the person aggrieved under subdivision (a) is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subdivision (a) may seek the remedies provided in subdivision (a) in the same action in combination or in the alternative. In any action under this subdivision, if the court finds the failure of the person to comply with the requirement to sign a record or deliver a record to the Secretary of State for filing to have been without justification, the court may award an amount sufficient to reimburse the persons

1 aggrieved under subdivision (a) bringing the action for the
2 reasonable expenses incurred by such persons, including
3 attorneys' fees, in connection with the action or proceeding.

4 (c) A record filed unsigned pursuant to this section is effective
5 without being signed.

6 (d) Any person, other than a general partner, delivering a
7 record to the Secretary of State for filing, shall state the statutory
8 authority for such action after the signature on the appropriate
9 record.

10 15902.06. (a) A record authorized or required to be delivered
11 to the Secretary of State for filing under this chapter must be
12 ~~captioned to describe the record's purpose, be completed on a~~
13 ~~form prescribed by and~~ in a medium permitted by the Secretary
14 of State, and be delivered to the Secretary of State. Unless the
15 Secretary of State determines that a record does not comply with
16 the filing requirements of this chapter, and if all filing fees have
17 been paid, the Secretary of State shall file the record and:

18 (1) for a ~~statement~~ *certificate* of dissociation, send:

19 (A) a copy of the filed ~~statement and a receipt for the fees~~
20 *certificate* to the person which the ~~statement~~ *certificate* indicates
21 has dissociated as a general partner; and

22 (B) a copy of the filed ~~statement and receipt~~ *certificate* to the
23 limited partnership;

24 (2) for a ~~statement~~ *certificate* of withdrawal, send:

25 (A) a copy of the filed ~~statement and a receipt for the fees~~
26 *certificate* to the person on whose behalf the record was filed;
27 and

28 (B) if the ~~statement~~ *certificate* refers to an existing limited
29 partnership, a copy of the filed ~~statement and receipt~~ *certificate*
30 to the limited partnership; and

31 (3) for all other records, send a copy of the filed record ~~and a~~
32 ~~receipt for the fees~~ to the person on whose behalf the record was
33 filed.

34 (b) Upon request and payment of the fee set forth in
35 Government Code Section 12183, the Secretary of State shall
36 send to the requestor a certified copy of the requested record.

37 (c) Except as otherwise provided in Sections 15901.16 and
38 15902.07, a record delivered to the Secretary of State for filing
39 under this chapter may specify an effective time and a delayed

effective date. Except as otherwise provided in this chapter, a record filed by the Secretary of State is effective:

(1) if the record does not specify ~~an effective time and does not specify~~ a delayed effective date, on the date ~~and at the time~~ the record is filed as evidenced by the Secretary of State's endorsement of the date ~~and time~~ on the record;

~~(2) if the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;~~

~~(3)~~
(2) if the record specifies a delayed effective date ~~but not an effective time, at 12:01 a.m.~~ on the earlier of:

(A) the specified date; or

(B) the 90th day after the record is filed; or

(4) if the record specifies ~~an effective time and~~ a delayed effective date, at the ~~specified time on the~~ earlier of:

(A) the specified date; or

(B) the 90th day after the record is filed.

(d) In case a delayed effective date is specified, the record may be prevented from becoming effective by a certificate stating that by appropriate action it has been revoked and is null and void, executed in the same manner as the original record and delivered to the Secretary of State for filing before the specified effective date. In the case of ~~articles~~ *certificate* of merger, a certificate revoking the earlier filing need only be executed on behalf of one of the constituent parties to the merger. If no such revocation certificate is filed, the record becomes effective on the date specified.

(e) If the Secretary of State determines that a record delivered to the Secretary of State for filing does not conform to the law and returns it to the person delivering it, the record may be resubmitted accompanied by a written opinion of the member of the State Bar of California delivering the record or representing the person delivering it, to the effect that the specific provisions of the record objected to by the Secretary of State do conform to law and stating the points and authorities upon which the opinion is based. The Secretary of State shall rely, with respect to any disputed point of law, other than the application of Sections 15901.08, 15901.09, 15909.02, and 15909.05, upon that written opinion in determining whether the record conforms to law.

1 When filed by the Secretary of State upon resubmission, such
2 record is effective retroactively as of the date that the original
3 record was delivered to the Secretary of State for filing.

4 15902.07. (a) A limited partnership or foreign limited
5 partnership may deliver to *and on a form prescribed by* the
6 Secretary of State for filing a ~~statement~~ *certificate* of correction
7 to correct a record previously delivered by the limited partnership
8 or foreign limited partnership to the Secretary of State and filed
9 by the Secretary of State, if at the time of filing the record
10 contained false or erroneous information or was defectively
11 signed.

12 (b) A ~~statement~~ *certificate* of correction may not state a
13 delayed effective date and must:

14 (1) describe the record to be corrected, including its filing date
15 *and file number*, or attach a copy of the record as filed;

16 (2) specify the incorrect information and the reason it is
17 incorrect or the manner in which the signing was defective; and

18 (3) correct the incorrect information or defective signature.

19 (c) When filed by the Secretary of State, a ~~statement~~
20 *certificate* of correction is effective retroactively as of the
21 effective date of the record the ~~statement~~ *certificate* corrects, but
22 the ~~statement~~ *certificate* is effective when filed:

23 (1) for the purposes of subdivisions (c) and (d) of Section
24 15901.03; and

25 (2) as to persons relying on the uncorrected record and
26 adversely affected by the correction.

27 15902.08. (a) If a record delivered to the Secretary of State
28 for filing under this chapter and filed by the Secretary of State
29 contains false information, a person that suffers loss by reliance
30 on the information may recover damages for the loss from:

31 (1) a person that signed the record, or caused another to sign it
32 on the person's behalf, and knew the information to be false at
33 the time the record was signed; and

34 (2) a general partner that has notice that the information was
35 false when the record was filed or has become false because of
36 changed circumstances, if the general partner has notice for a
37 reasonably sufficient time before the information is relied upon
38 to enable the general partner to effect an amendment under
39 Section 15902.02, file a petition pursuant to Section 15902.05, or
40 deliver to the Secretary of State for filing a ~~statement of change~~

1 ~~pursuant to Section 15901.15 or a statement~~ *certificate* of
2 ~~correction pursuant to Section 15902.07.~~

3 (b) Signing a record authorized or required to be filed under
4 this chapter constitutes an affirmation under the penalties of
5 perjury that the facts stated in the record are true.

6 ~~15902.09. (a) The Secretary of State, upon request and~~
7 ~~payment of the requisite fee, shall furnish a certificate of~~
8 ~~existence for a limited partnership if the records filed in the~~
9 ~~office of the Secretary of State show that the Secretary of State~~
10 ~~has filed a certificate of limited partnership and has not filed a~~
11 ~~statement of termination. A certificate of existence must state:~~

12 ~~(1) the limited partnership's name;~~

13 ~~(2) that it was duly formed under the laws of this state and the~~
14 ~~date of formation;~~

15 ~~(3) whether all fees, taxes, and penalties due to the Secretary~~
16 ~~of State under this chapter or other law have been paid;~~

17 ~~(4) whether the Secretary of State has administratively~~
18 ~~dissolved the limited partnership;~~

19 ~~(5) whether the limited partnership's certificate of limited~~
20 ~~partnership has been amended to state that the limited partnership~~
21 ~~is dissolved;~~

22 ~~(6) that a statement of termination has not been filed by the~~
23 ~~Secretary of State; and~~

24 ~~(7) other facts of record in the office of the Secretary of State~~
25 ~~which may be requested by the applicant.~~

26 ~~(b) The Secretary of State, upon request and payment of the~~
27 ~~requisite fee, shall furnish a certificate of authorization for a~~
28 ~~foreign limited partnership if the records filed in the office of the~~
29 ~~Secretary of State show that the Secretary of State has filed a~~
30 ~~certificate of authority, has not revoked the certificate of~~
31 ~~authority, and has not filed a notice of cancellation. A certificate~~
32 ~~of authorization must state:~~

33 ~~(1) the foreign limited partnership's name and any alternate~~
34 ~~name adopted under subdivision (a) of Section 15909.05 for use~~
35 ~~in this state;~~

36 ~~(2) that it is authorized to transact business in this state;~~

37 ~~(3) whether all fees, taxes, and penalties due to the Secretary~~
38 ~~of State under this chapter or other law have been paid;~~

39 ~~(4) that the Secretary of State has not revoked its certificate of~~
40 ~~authority and has not filed a notice of cancellation; and~~

~~(5) other facts of record in the office of the Secretary of State which may be requested by the applicant.~~

~~(e) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the limited partnership or foreign limited partnership is in existence or is authorized to transact business in this state.~~

15902.09. (a) A domestic limited partnership whose certificate of limited partnership has been canceled pursuant to Section 15902.03 may be revived by filing with, and on a form prescribed by, the Secretary of State a certificate of revival. The certificate of revival shall be accompanied by written confirmation by the Franchise Tax Board that all of the following have been paid to the Franchise Tax Board:

(1) The annual tax due under Section 17935 of the Revenue and Taxation Code.

(2) All penalties and interest thereof for each year for which the domestic limited partnership failed to pay such annual tax, including each year between the cancellation of its certificate of limited partnership and its revival.

(b) The certificate of revival shall set forth all of the following:

(1) The name of the limited partnership at the time its certificate of limited partnership was cancelled, and if the name is not available at the time of revival, the name under which the limited partnership is to be revived.

(2) The date of filing of the original certificate of limited partnership.

(3) The address of the limited partnership's registered office in the State of California and the name and address of the limited partnership's registered agent in the State of California.

(4) A statement that the certificate of revival is filed by one or more general partners of the limited partnership authorized to execute and file the certificate of revival to revive the limited partnership.

(5) The Secretary of State's file number for the original limited partnership.

(6) Any other matters the general partner or partners executing the certificate of revival determine to include therein.

(c) The certificate of revival should be deemed to be an amendment to the certificate of limited partnership, and the

1 *limited partnership shall not be required to take any further*
 2 *action to amend its certificate of limited partnership pursuant to*
 3 *Section 15902.02 with respect to the matter set forth in the*
 4 *certificate of revival.*

5 *(d) Upon the filing of the certificate of revival, the limited*
 6 *partnership shall be revived with the same force and effect as if*
 7 *the certificate of limited partnership had not been canceled*
 8 *pursuant to Section 15902.03. The revival shall validate all*
 9 *contracts, acts, matters, and things made, done, and performed*
 10 *by the limited partnership, its partners, employees, and agents*
 11 *following the time its certificate of limited partnership was*
 12 *canceled pursuant to Section 15902.03 with the same force and*
 13 *effect and all intents and purposes as if the certificate of limited*
 14 *partnership had remained in full force and effect. All real and*
 15 *personal property, and all rights and interests, that belong to a*
 16 *limited partnership at the time its certificate of limited*
 17 *partnership was cancelled pursuant to Section 15902.03 or that*
 18 *were acquired by the limited partnership following the*
 19 *cancellation of the certificate of limited partnership, that were*
 20 *not disposed of prior to the time of its revival, shall be vested in*
 21 *the limited partnership after its revival as fully as if they were*
 22 *held by the limited partnership at, and during the time after, as*
 23 *the case may be, the time the certificate of limited partnership*
 24 *was cancelled. After its revival, the limited partnership and its*
 25 *partners shall have all of the same liability for contracts, acts,*
 26 *matters, and things made, done, or performed in the limited*
 27 *partnership's name and on behalf of its partners, employees, and*
 28 *agents, as the limited partnership and its partners would have*
 29 *had if the limited partnership's certificate of limited partnership*
 30 *had at all times remained in full force and effect.*

Article 3. Limited Partners

15903.01. A person becomes a limited partner:

- (a) as provided in the partnership agreement;
- (b) as the result of a conversion or merger under Article 11 (commencing with Section 15911.01); or
- (c) with the consent of all the partners.

1 15903.02. A limited partner does not have the right or the
2 power as a limited partner to act for or bind the limited
3 partnership.

4 15903.03. An obligation of a limited partnership, whether
5 arising in contract, tort, or otherwise, is not the obligation of a
6 limited partner. A limited partner is not personally liable, directly
7 or indirectly, by way of contribution or otherwise, for an
8 obligation of the limited partnership solely by reason of being a
9 limited partner, even if the limited partner participates in the
10 management and control of the limited partnership.

11 15903.04. (a) On 10 days' demand, made in a record
12 received by the limited partnership, a limited partner may inspect
13 and copy required information during regular business hours in
14 the limited partnership's designated office. The limited partner
15 need not have any particular purpose for seeking the information.

16 (b) Subject to subdivision (g), during regular business hours
17 and at a reasonable location specified by the limited partnership,
18 a limited partner may obtain from the limited partnership, *which*
19 *may be transmitted via electronic transmission*, and inspect and
20 copy true and full information regarding the state of the activities
21 and financial condition of the limited partnership and other
22 information regarding the activities of the limited partnership as
23 is just and reasonable if:

24 (1) the limited partner seeks the information for a purpose
25 reasonably related to the partner's interest as a limited partner;

26 (2) the limited partner makes a demand in a record received by
27 the limited partnership, describing with reasonable particularity
28 the information sought and the purpose for seeking the
29 information; and

30 (3) the information sought is directly connected to the limited
31 partner's purpose.

32 (c) Within 10 days after receiving a demand pursuant to
33 subdivision (b), the limited partnership in a record shall inform
34 the limited partner that made the demand:

35 (1) what information the limited partnership will provide in
36 response to the demand;

37 (2) when and where the limited partnership will provide the
38 information; and

1 (3) if the limited partnership declines to provide any
2 demanded information, the limited partnership's reasons for
3 declining.

4 (d) Subject to subdivision (f), a person dissociated as a limited
5 partner may inspect and copy required information during regular
6 business hours in the limited partnership's designated office if:

7 (1) the information pertains to the period during which the
8 person was a limited partner;

9 (2) the person seeks the information in good faith; and

10 (3) the person meets the requirements of subdivision (b).

11 (e) The limited partnership shall respond to a demand made
12 pursuant to subdivision (d) in the same manner as provided in
13 subdivision (c).

14 (f) If a limited partner dies, Section 15907.04 applies.

15 (g) The limited partnership shall have the right to keep
16 confidential from limited partners for such period of time as the
17 limited partnership deems reasonable, any information which the
18 limited partnership reasonably believes to be in the nature of
19 trade secrets or other information the disclosure of which the
20 limited partnership in good faith believes is not in the best
21 interest of the limited partnership or could damage the limited
22 partnership or its business or which the limited partnership is
23 required by law or by agreement with a third party to keep
24 confidential.

25 (h) The limited partnership may impose reasonable restrictions
26 on the use of information obtained under this section. In a dispute
27 concerning the reasonableness of a restriction under this
28 subdivision, the limited partnership has the burden of proving
29 reasonableness.

30 (i) A limited partnership may charge a person that makes a
31 demand under this section reasonable costs of copying, limited to
32 the costs of labor and material.

33 (j) Whenever this chapter or a partnership agreement provides
34 for a limited partner to give or withhold consent to a matter,
35 before the consent is given or withheld, the limited partnership
36 shall, without demand, provide the limited partner with all
37 information material to the limited partner's decision that the
38 limited partnership knows.

39 (k) A limited partner or person dissociated as a limited partner
40 may exercise the rights under this section through an attorney or

1 other agent. Any restriction imposed under subdivision (g),
2 subdivision (h) or by the partnership agreement applies both to
3 the attorney or other agent and to the limited partner or person
4 dissociated as a limited partner.

5 (l) The rights stated in this section do not extend to a person as
6 transferee, but may be exercised by the legal representative of an
7 individual under legal disability who is a limited partner or
8 person dissociated as a limited partner.

9 15903.05. (a) A limited partner does not have any fiduciary
10 duty to the limited partnership or to any other partner solely by
11 reason of being a limited partner.

12 (b) A limited partner shall discharge the duties to the
13 partnership and the other partners under this chapter or under the
14 partnership agreement and exercise any rights consistently with
15 the obligation of good faith and fair dealing.

16 (c) A limited partner does not violate a duty or obligation
17 under this chapter or under the partnership agreement merely
18 because the limited partner's conduct furthers the limited
19 partner's own interest.

20 15903.06. (a) Except as otherwise provided in subdivision
21 (b), a person that makes an investment in a business enterprise
22 and erroneously but in good faith believes that the person has
23 become a limited partner in the enterprise is not liable for the
24 enterprise's obligations by reason of making the investment,
25 receiving distributions from the enterprise, or exercising any
26 rights of or appropriate to a limited partner, if, on ascertaining the
27 mistake, the person:

28 (1) causes an appropriate certificate of limited partnership,
29 amendment, or ~~statement~~ *certificate* of correction to be signed
30 and delivered to the Secretary of State for filing; or

31 (2) withdraws from future participation as an owner in the
32 enterprise by signing and delivering to *and on a form prescribed*
33 *by the Secretary of State for filing a* ~~statement~~ *certificate* of
34 withdrawal under this section.

35 (b) A person that makes an investment described in
36 subdivision (a) is liable to the same extent as a general partner to
37 any third party that enters into a transaction with the enterprise,
38 believing in good faith that the person is a general partner, before
39 the Secretary of State files a ~~statement~~ *certificate* of withdrawal,
40 certificate of limited partnership, amendment, or ~~statement~~

1 *certificate* of correction to show that the person is not a general
2 partner.

3 (c) If a person makes a diligent effort in good faith to comply
4 with paragraph (1) of subdivision (a) and is unable to cause the
5 appropriate certificate of limited partnership, amendment, or
6 ~~statement~~ *certificate* of correction to be signed and delivered to
7 the Secretary of State for filing, the person has the right to
8 withdraw from the enterprise pursuant to paragraph (2) of
9 subdivision (a) even if the withdrawal would otherwise breach an
10 agreement with others that are or have agreed to become
11 co-owners of the enterprise.

12 15903.07. (a) *The* partnership agreement may provide for the
13 creation of classes of limited partners. The partnership agreement
14 shall define the rights, powers, and duties of those classes,
15 including rights, powers, and duties senior to other classes of
16 limited partners.

17 (b) The partnership agreement may provide to all or certain
18 specified classes of limited partners the right to vote separately or
19 with all or any class or the general partners on any matter.

20 21 Article 4. General Partners

22
23 15904.01. A person becomes a general partner:

24 (a) as provided in the partnership agreement:

25 (b) under paragraph (2) of subdivision (c) of Section 15908.01
26 following the dissociation of a limited partnership's last general
27 partner;

28 (c) as the result of a conversion or merger under Article 11
29 (commencing with Section 15911.01); or

30 (d) with the consent of all the partners.

31 15904.02. (a) Each general partner is an agent of the limited
32 partnership for the purposes of its activities. An act of a general
33 partner, including the signing of a record in the partnership's
34 name, for apparently carrying on in the ordinary course the
35 limited partnership's activities or activities of the kind carried on
36 by the limited partnership binds the limited partnership, unless
37 the general partner did not have authority to act for the limited
38 partnership in the particular matter and the person with which the
39 general partner was dealing knew, had received a notification, or

1 had notice under subdivision (d) of Section 15901.03 that the
2 general partner lacked authority.

3 (b) An act of a general partner which is not apparently for
4 carrying on in the ordinary course the limited partnership's
5 activities or activities of the kind carried on by the limited
6 partnership binds the limited partnership only if the act was
7 actually authorized by all the other partners.

8 15904.03. (a) A limited partnership is liable for loss or injury
9 caused to a person, or for a penalty incurred, as a result of a
10 wrongful act or omission, or other actionable conduct, of a
11 general partner acting in the ordinary course of activities of the
12 limited partnership or with authority of the limited partnership.

13 (b) If, in the course of the limited partnership's activities or
14 while acting with authority of the limited partnership, a general
15 partner receives or causes the limited partnership to receive
16 money or property of a person not a partner, and the money or
17 property is misapplied by a general partner, the limited
18 partnership is liable for the loss.

19 15904.04. (a) Except as otherwise provided in subdivisions
20 (b) and (c), all general partners are liable jointly and severally for
21 all obligations of the limited partnership unless otherwise agreed
22 by the claimant or provided by law.

23 (b) A person that becomes a general partner of an existing
24 limited partnership is not personally liable for an obligation of a
25 limited partnership incurred before the person became a general
26 partner.

27 (c) An obligation of a limited partnership incurred while the
28 limited partnership is a limited liability limited partnership,
29 whether arising in contract, tort, or otherwise, is solely the
30 obligation of the limited partnership. A general partner is not
31 personally liable, directly or indirectly, by way of contribution or
32 otherwise, for such an obligation solely by reason of being or
33 acting as a general partner. This subdivision applies despite
34 anything inconsistent in the partnership agreement that existed
35 immediately before the consent required to become a limited
36 liability limited partnership under paragraph (2) of subdivision
37 (b) of Section 15904.06.

38 15904.05. (a) To the extent not inconsistent with Section
39 15904.04, a general partner may be joined in an action against
40 the limited partnership or named in a separate action.

1 (b) A judgment against a limited partnership is not by itself a
2 judgment against a general partner. A judgment against a limited
3 partnership may not be satisfied from a general partner's assets
4 unless there is also a judgment against the general partner.

5 (c) A judgment creditor of a general partner may not levy
6 execution against the assets of the general partner to satisfy a
7 judgment based on a claim against the limited partnership, unless
8 the partner is personally liable for the claim under Section
9 15904.04 and:

10 (1) a judgment based on the same claim has been obtained
11 against the limited partnership and a writ of execution on the
12 judgment has been returned unsatisfied in whole or in part;

13 (2) the limited partnership is a debtor in bankruptcy;

14 (3) the general partner has agreed that the creditor need not
15 exhaust limited partnership assets;

16 (4) a court grants permission to the judgment creditor to levy
17 execution against the assets of a general partner based on a
18 finding that limited partnership assets subject to execution are
19 clearly insufficient to satisfy the judgment, that exhaustion of
20 limited partnership assets is excessively burdensome, or that the
21 grant of permission is an appropriate exercise of the court's
22 equitable powers; or

23 (5) liability is imposed on the general partner by law or
24 contract independent of the existence of the limited partnership.

25 15904.06. (a) Each general partner has equal rights in the
26 management and conduct of the limited partnership's activities.
27 Except as expressly provided in this chapter, any matter relating
28 to the activities of the limited partnership may be exclusively
29 decided by the general partner or, if there is more than one
30 general partner, by a majority of the general partners.

31 (b) The consent of each partner is necessary to:

32 (1) amend the partnership agreement;

33 (2) amend the certificate of limited partnership to add or;
34 ~~subject to Section 15911.10;~~ delete a statement that the limited
35 partnership is a limited liability limited partnership; and

36 (3) sell, lease, exchange, or otherwise dispose of all, or
37 substantially all, of the limited partnership's property, with or
38 without the good will, other than in the usual and regular course
39 of the limited partnership's activities.

1 (c) A limited partnership shall reimburse a general partner for
2 payments made and indemnify a general partner for liabilities
3 incurred by the general partner in the ordinary course of the
4 activities of the partnership or for the preservation of its activities
5 or property.

6 (d) A limited partnership shall reimburse a general partner for
7 an advance to the limited partnership beyond the amount of
8 capital the general partner agreed to contribute.

9 (e) A payment or advance made by a general partner which
10 gives rise to an obligation of the limited partnership under
11 subdivision (c) or (d) constitutes a loan to the limited partnership
12 which accrues interest from the date of the payment or advance.

13 (f) A general partner is not entitled to remuneration for
14 services performed for the partnership.

15 15904.07. (a) A general partner, without having any
16 particular purpose for seeking the information, may inspect and
17 copy during regular business hours:

18 (1) in the limited partnership's designated office, required
19 information; and

20 (2) at a reasonable location specified by the limited
21 partnership, any other records maintained by the limited
22 partnership regarding the limited partnership's activities and
23 financial condition.

24 (b) Each general partner and the limited partnership shall
25 furnish to a general partner *which may be transmitted via*
26 *electronic transmission*:

27 (1) without demand, any information concerning the limited
28 partnership's activities and activities reasonably required for the
29 proper exercise of the general partner's rights and duties under
30 the partnership agreement or this chapter; and

31 (2) on demand, any other information concerning the limited
32 partnership's activities, except to the extent the demand or the
33 information demanded is unreasonable or otherwise improper
34 under the circumstances.

35 (c) Subject to subdivision (e), on 10 days' demand made in a
36 record received by the limited partnership, a person dissociated
37 as a general partner may have access to the information and
38 records described in subdivision (a) at the location specified in
39 subdivision (a) if:

1 (1) the information or record pertains to the period during
2 which the person was a general partner;

3 (2) the person seeks the information or record in good faith;
4 and

5 (3) the person satisfies the requirements imposed on a limited
6 partner by subdivision (b) of Section 15903.04.

7 (d) The limited partnership shall respond to a demand made
8 pursuant to subdivision (c) in the same manner as provided in
9 subdivision (c) of Section 15903.04.

10 (e) If a general partner dies, Section 15907.04 applies.

11 (f) The limited partnership may impose reasonable restrictions
12 on the use of information under this section. In any dispute
13 concerning the reasonableness of a restriction under this
14 subdivision, the limited partnership has the burden of proving
15 reasonableness.

16 (g) A limited partnership may charge a person dissociated as a
17 general partner that makes a demand under this section
18 reasonable costs of copying, limited to the costs of labor and
19 material.

20 (h) A general partner or person dissociated as a general partner
21 may exercise the rights under this section through an attorney or
22 other agent. Any restriction imposed under subdivision (f) or by
23 the partnership agreement applies both to the attorney or other
24 agent and to the general partner or person dissociated as a general
25 partner.

26 (i) The rights under this section do not extend to a person as
27 transferee, but the rights under subdivision (c) of a person
28 dissociated as a general *partner* may be exercised by the legal
29 representative of an individual who dissociated as a general
30 partner under paragraph (2) or (3) of subdivision (g) of Section
31 15906.03.

32 15904.08. (a) The fiduciary duties that a general partner
33 owes to the limited partnership and the other partners are the
34 duties of loyalty and care under subdivisions (b) and (c).

35 (b) A general partner's duty of loyalty to the limited
36 partnership and the other partners is limited to the following:

37 (1) to account to the limited partnership and hold as trustee for
38 it any property, profit, or benefit derived by the general partner in
39 the conduct and winding up of the limited partnership's activities
40 or derived from a use by the general partner of limited

1 partnership property, including the appropriation of a limited
2 partnership opportunity;

3 (2) to refrain from dealing with the limited partnership in the
4 conduct or winding up of the limited partnership's activities as or
5 on behalf of a party having an interest adverse to the limited
6 partnership; and

7 (3) to refrain from competing with the limited partnership in
8 the conduct or winding up of the limited partnership's activities.

9 (c) A general partner's duty of care to the limited partnership
10 and the other partners in the conduct and winding up of the
11 limited partnership's activities is limited to refraining from
12 engaging in grossly negligent or reckless conduct, intentional
13 misconduct, or a knowing violation of law.

14 (d) A general partner shall discharge the duties to the
15 partnership and the other partners under this chapter or under the
16 partnership agreement and exercise any rights consistently with
17 the obligation of good faith and fair dealing.

18 (e) A general partner does not violate a duty or obligation
19 under this chapter or under the partnership agreement merely
20 because the general partner's conduct furthers the general
21 partner's own interest.

22 ~~15904.09. (a) A partnership agreement may provide for the~~
23 ~~creation of~~

24 *15904.09. (a) A partnership agreement may provide for the*
25 *creation of* classes of general partners. The partnership
26 agreement shall define the rights, powers, and duties of those
27 classes including rights, powers, and duties senior to other
28 classes of general partners.

29 (b) The partnership agreement may provide to all or certain
30 specified classes of general partners the right to vote separately
31 or with all or any class of the general partners on any matters.

32 *(c) The partnership agreement may allow a person to be*
33 *admitted as a general partner without acquiring a partnership*
34 *interest in the limited partnership.*

35 36 Article 5. Contributions and Distributions

37
38 15905.01. A contribution of a partner may consist of tangible
39 or intangible property or other benefit to the limited partnership,
40 including money, services performed, promissory notes, other

1 agreements to contribute cash or property, and contracts for
2 services to be performed.

3 15905.02. (a) A partner's obligation to contribute money or
4 other property or other benefit to, or to perform services for, a
5 limited partnership is not excused by the partner's death,
6 disability, or other inability to perform personally.

7 (b) If a partner does not make a promised nonmonetary
8 contribution, the partner is obligated at the option of the limited
9 partnership to contribute money equal to the value of that
10 portion, as stated in the required information, of the stated
11 contribution which has not been made.

12 (c) The obligation of a partner to make a contribution or return
13 money or other property paid or distributed in violation of this
14 chapter may be compromised only by consent of all partners. A
15 creditor of a limited partnership which extends credit or
16 otherwise acts in reliance on an obligation described in
17 subdivision (a), without notice of any compromise under this
18 subdivision, may enforce the original obligation.

19 (d) A partnership agreement may provide that the interest of a
20 partner who fails to make any contribution or other payment that
21 the partner is required to make will be subject to specific
22 remedies for, or specific consequences of, the failure. A
23 provision shall be enforceable in accordance with its terms unless
24 the partner seeking to invalidate the provision establishes that the
25 provision was unreasonable under the circumstances existing at
26 the time the agreement was made. The specific remedies or
27 consequences may include loss of voting, approval, or other
28 rights, loss of the partner's ability to actively participate in the
29 management and operations of the partnership, liquidated
30 damages, or a reduction of the defaulting partner's economic
31 rights. The reduction of the defaulting partner's economic rights
32 may include one or more of the following provisions:

33 (1) Diluting, reducing or eliminating the defaulting partner's
34 proportionate interest in the partnership.

35 (2) Subordinating the defaulting partner's interest in the
36 partnership to that of nondefaulting partners.

37 (3) Permitting a forced sale of the partnership interest.

38 (4) Permitting the lending or contribution by other partners of
39 the amount necessary to meet the defaulting partner's
40 commitment.

1 (5) Adjusting the interest rates or other rates of return,
2 preferred, priority, or otherwise, with respect to contributions by
3 or capital accounts of the other partners.

4 (6) Fixing the value of the defaulting partner's interest in the
5 partnership by appraisal, formula and redemption, or sale of the
6 defaulting partner's interest in the partnership at a percentage of
7 that value.

8 (7) Nothing in this section shall be construed to affect the
9 rights of third-party creditors of the partnership to seek equitable
10 remedies nor any rights existing under the Uniform Fraudulent
11 Transfer Act (Chapter 1 (commencing with Section 3439) of
12 Title 2 of Part 2 of Division 4 of the Civil Code).

13 15905.03. A distribution by a limited partnership must be
14 shared among the partners on the basis of the value, as stated in
15 the required records when the limited partnership decides to
16 make the distribution, of the contributions the limited partnership
17 has received from each partner.

18 15905.035. The profits and losses of a limited partnership
19 shall be allocated among the partners in the manner provided in
20 the partnership agreement. If the partnership agreement does not
21 otherwise provide, profits and losses shall be allocated in the
22 same manner as the partners share distributions.

23 15905.04. A partner does not have a right to any distribution
24 before the dissolution and winding up of the limited partnership
25 unless the limited partnership decides to make an interim
26 distribution.

27 15905.05. A person does not have a right to receive a
28 distribution on account of dissociation.

29 15905.06. A partner does not have a right to demand or
30 receive any distribution from a limited partnership in any form
31 other than cash. Subject to subdivision (b) of Section 15908.11, a
32 limited partnership may distribute an asset in kind to the extent
33 each partner receives a percentage of the asset equal to the
34 partner's share of distributions.

35 15905.07. When a partner or transferee becomes entitled to
36 receive a distribution, the partner or transferee has the status of,
37 and is entitled to all remedies available to, a creditor of the
38 limited partnership with respect to the distribution. However, the
39 limited partnership's obligation to make a distribution is subject
40 to offset for any amount owed to the limited partnership by the

1 partner or dissociated partner on whose account the distribution
2 is made.

3 15905.08. (a) A limited partnership may not make a
4 distribution in violation of the partnership agreement. For
5 purposes of this ~~Section 15905.08~~ *section* and Section 15905.09,
6 the term “distribution” shall not include amounts constituting
7 reasonable compensation for present or past services or
8 reasonable payments made in the ordinary course of business
9 pursuant to a bona fide retirement plan or other benefits program.

10 (b) A limited partnership may not make a distribution if after
11 the distribution:

12 (1) the limited partnership would not be able to pay its debts as
13 they become due in the ordinary course of the limited
14 partnership’s activities; or

15 (2) the limited partnership’s total assets would be less than the
16 sum of its total liabilities plus the amount that would be needed,
17 if the limited partnership were to be dissolved, wound up, and
18 terminated at the time of the distribution, to satisfy the
19 preferential rights upon dissolution, winding up, and termination
20 of partners whose preferential rights are superior to those of
21 persons receiving the distribution.

22 (c) A limited partnership may base a determination that a
23 distribution is not prohibited under subdivision (b) on financial
24 statements prepared on the basis of accounting practices and
25 principles that are reasonable in the circumstances or on a fair
26 valuation or other method that is reasonable in the circumstances.

27 (d) Except as otherwise provided in subdivision (g), the effect
28 of a distribution under subdivision (b) is measured:

29 (1) in the case of distribution by purchase, redemption, or
30 other acquisition of a transferable interest in the limited
31 partnership, as of the date money or other property is transferred
32 or debt incurred by the limited partnership; and

33 (2) in all other cases, as of the date:

34 (A) the distribution is authorized, if the payment occurs within
35 120 days after that date; or

36 (B) the payment is made, if payment occurs more than 120
37 days after the distribution is authorized.

38 (e) A limited partnership’s indebtedness to a partner incurred
39 by reason of a distribution made in accordance with this section

1 is at parity with the limited partnership's indebtedness to its
2 general unsecured creditors.

3 (f) A limited partnership's indebtedness, including
4 indebtedness issued in connection with or as part of a
5 distribution, is not considered a liability for purposes of
6 subdivision (b) if the terms of the indebtedness provide that
7 payment of principal and interest are made only to the extent that
8 a distribution could then be made to partners under this section.

9 (g) If indebtedness is issued as a distribution, each payment of
10 principal or interest on the indebtedness is treated as a
11 distribution, the effect of which is measured on the date the
12 payment is made.

13 15905.09. (a) A general partner that consents to a
14 distribution made in violation of Section 15905.08 is personally
15 liable to the limited partnership for the amount of the distribution
16 which exceeds the amount that could have been distributed
17 without the violation if it is established that in consenting to the
18 distribution the general partner failed to comply with Section
19 15904.08.

20 (b) A partner or transferee that received a distribution knowing
21 that the distribution to that partner or transferee was made in
22 violation of Section 15905.08 is personally liable to the limited
23 partnership but only to the extent that the distribution received by
24 the partner or transferee exceeded the amount that could have
25 been properly paid under Section 15905.08.

26 (c) A general partner against which an action is commenced
27 under subdivision (a) may:

28 (1) implead in the action any other person that is liable under
29 subdivision (a) and compel contribution from the person; and

30 (2) implead in the action any person that received a
31 distribution in violation of subdivision (b) and compel
32 contribution from the person in the amount the person received in
33 violation of subdivision (b).

34 (d) An action under this Section is barred if it is not
35 commenced within four years after the distribution.

Article 6. Dissociation

15906.01. (a) A person does not have a right to dissociate as a limited partner before the termination of the limited partnership.

(b) A person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:

(1) the limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person;

(2) an event agreed to in the partnership agreement as causing the person's dissociation as a limited partner;

(3) the person's expulsion as a limited partner pursuant to the partnership agreement;

(4) the person's expulsion as a limited partner by the unanimous consent of the other partners if:

(A) it is unlawful to carry on the limited partnership's activities with the person as a limited partner;

(B) there has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(C) the person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(D) the person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) on application by the limited partnership, the person's expulsion as a limited partner by judicial order because:

(A) the person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;

(B) the person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good

1 faith and fair dealing under subdivision (b) of Section 15903.05;
2 or

3 (C) the person engaged in conduct relating to the limited
4 partnership's activities which makes it not reasonably practicable
5 to carry on the activities with the person as limited partner;

6 (6) in the case of a person who is an individual, the person's
7 death;

8 (7) in the case of a person that is a trust or is acting as a
9 limited partner by virtue of being a trustee of a trust, distribution
10 of the trust's entire transferable interest in the limited
11 partnership, but not merely by reason of the substitution of a
12 successor trustee;

13 (8) in the case of a person that is an estate or is acting as a
14 limited partner by virtue of being a personal representative of an
15 estate, distribution of the estate's entire transferable interest in
16 the limited partnership, but not merely by reason of the
17 substitution of a successor personal representative;

18 (9) termination of a limited partner that is not an individual,
19 partnership, limited liability company, corporation, trust, or
20 estate;

21 (10) the limited partnership's participation in a conversion or
22 merger under Article 11 (commencing with Section 15911.01), if
23 the limited partnership:

24 (A) is not the converted or surviving entity; or

25 (B) is the converted or surviving entity but, as a result of the
26 conversion or merger, the person ceases to be a limited partner.

27 15906.02. (a) Upon a person's dissociation as a limited
28 partner:

29 (1) subject to Section 15907.04, the person does not have
30 further rights as a limited partner;

31 (2) the person's obligation of good faith and fair dealing as a
32 limited partner under subdivision (b) of Section 15903.05
33 continues only as to matters arising and events occurring before
34 the dissociation; and

35 (3) subject to Section 15907.04 and Article 11 (commencing
36 with Section 15911.01), any transferable interest owned by the
37 person in the person's capacity as a limited partner immediately
38 before dissociation is owned by the person as a mere transferee.

39 (b) A person's dissociation as a limited partner does not of
40 itself discharge the person from any obligation to the limited

1 partnership or the other partners which the person incurred while
2 a limited partner.

3 15906.03. A person is dissociated from a limited partnership
4 as a general partner upon the occurrence of any of the following
5 events:

6 (a) the limited partnership's having notice of the person's
7 express will to withdraw as a general partner or on a later date
8 specified by the person;

9 (b) an event agreed to in the partnership agreement as causing
10 the persons dissociation as a general partner;

11 (c) the person's expulsion as a general partner pursuant to the
12 partnership agreement;

13 (d) the person's expulsion as a general partner by the
14 unanimous consent of the other partners if:

15 (1) it is unlawful to carry on the limited partnership's activities
16 with the person as a general partner;

17 (2) there has been a transfer of all or substantially all of the
18 person's transferable interest in the limited partnership, other
19 than a transfer for security purposes, or a court order charging the
20 person's interest, which has not been foreclosed;

21 (3) the person is a corporation and, within 90 days after the
22 limited partnership notifies the person that it will be expelled as a
23 general partner because it has filed a certificate of dissolution or
24 the equivalent, its charter has been revoked, or its right to
25 conduct business has been suspended by the jurisdiction of its
26 incorporation, there is no revocation of the certificate of
27 dissolution or no reinstatement of its charter or its right to
28 conduct business; or

29 (4) the person is a limited liability company or partnership that
30 has been dissolved and whose business is being wound up;

31 (e) on application by the limited partnership, the person's
32 expulsion as a general partner by judicial determination because:

33 (1) the person engaged in wrongful conduct that adversely and
34 materially affected the limited partnership activities;

35 (2) the person willfully or persistently committed a material
36 breach of the partnership agreement or of a duty owed to the
37 partnership or the other partners under Section 15904.08; or

38 (3) the person engaged in conduct relating to the limited
39 partnership's activities which makes it not reasonably practicable

1 to carry on the activities of the limited partnership with the
2 person as a general partner;

3 (f) the person's:

4 (1) becoming a debtor in bankruptcy;

5 (2) execution of an assignment for the benefit of creditors;

6 (3) seeking, consenting to, or acquiescing in the appointment
7 of a trustee, receiver, or liquidator of the person or of all or
8 substantially all of the person's property; or

9 (4) failure, within 90 days after the appointment, to have
10 vacated or stayed the appointment of a trustee, receiver, or
11 liquidator of the general partner or of all or substantially all of
12 the person's property obtained without the person's consent or
13 acquiescence, or failing within 90 days after the expiration of a
14 stay to have the appointment vacated;

15 (g) in the case of a person who is an individual:

16 (1) the person's death;

17 (2) the appointment of a guardian or general conservator for
18 the person; or

19 (3) a judicial determination that the person has otherwise
20 become incapable of performing the person's duties as a general
21 partner under the partnership agreement;

22 (h) in the case of a person that is a trust or is acting as a
23 general partner by virtue of being a trustee of a trust, distribution
24 of the trust's entire transferable interest in the limited
25 partnership, but not merely by reason of the substitution of a
26 successor trustee;

27 (i) in the case of a person that is an estate or is acting as a
28 general partner by virtue of being a personal representative of an
29 estate, distribution of the estate's entire transferable interest in
30 the limited partnership, but not merely by reason of the
31 substitution of a successor personal representative;

32 (j) termination of a general partner that is not an individual,
33 partnership, limited liability company, corporation, trust, or
34 estate; or

35 (k) the limited partnership's participation in a conversion or
36 merger under Article 11 (commencing with Section 15911.01), if
37 the limited partnership:

38 (1) is not the converted or surviving entity; or

39 (2) is the converted or surviving entity but, as a result of the
40 conversion or merger, the person ceases to be a general partner.

1 15906.04. (a) A person has the power to dissociate as a
2 general partner at any time, rightfully or wrongfully, by express
3 will pursuant to subdivision (a) of Section 15906.03.

4 (b) A person's dissociation as a general partner is wrongful
5 only if:

6 (1) it is in breach of an express provision of the partnership
7 agreement; or

8 (2) it occurs before the termination of the limited partnership,
9 and:

10 (A) the person withdraws as a general partner by express will;

11 (B) the person is expelled as a general partner by judicial
12 determination under subdivision (e) of Section 15906.03;

13 (C) the person is dissociated as a general partner by becoming
14 a debtor in bankruptcy; or

15 (D) in the case of a person that is not an individual, trust other
16 than a business trust, or estate, the person is expelled or
17 otherwise dissociated as a general partner because it willfully
18 dissolved or terminated.

19 (c) A person that wrongfully dissociates as a general partner is
20 liable to the limited partnership and, subject to Section 15910.01,
21 to the other partners for damages caused by the dissociation. The
22 liability is in addition to any other obligation of the general
23 partner to the limited partnership or to the other partners.

24 15906.05. (a) Upon a person's dissociation as a general
25 partner:

26 (1) the person's right to participate as a general partner in the
27 management and conduct of the partnership's activities
28 terminates;

29 (2) the person's duty of loyalty as a general partner under
30 paragraph (3) of subdivision (b) of Section 15904.08 terminates;

31 (3) the person's duty of loyalty as a general partner under
32 paragraphs (1) and (2) of subdivision (b) of Section 15904.08 and
33 duty of care under subdivision (c) of Section 15904.08 continue
34 only with regard to matters arising and events occurring before
35 the person's dissociation as a general partner;

36 (4) the person may sign and deliver to the Secretary of State
37 for filing ~~a statement~~, *on a form prescribed by the Secretary of*
38 *State, a certificate* of dissociation pertaining to the person and, at
39 the request of the limited partnership, shall sign an amendment to

1 the certificate of limited partnership which states that the person
2 has dissociated; and

3 (5) subject to Section 15907.04 and Article 11 (commencing
4 with Section 15911.01), any transferable interest owned by the
5 person immediately before dissociation in the person's capacity
6 as a general partner is owned by the person as a mere transferee.

7 (b) A person's dissociation as a general partner does not of
8 itself discharge the person from any obligation to the limited
9 partnership or the other partners which the person incurred while
10 a general partner.

11 15906.06. (a) After a person is dissociated as a general
12 partner and before the limited partnership is dissolved, converted
13 under Article 11 (commencing with Section 15911.01), or
14 merged out of existence under that article, the limited partnership
15 is bound by an act of the person only if:

16 (1) the act would have bound the limited partnership under
17 Section 15904.02 before the dissociation; and

18 (2) at the time the other party enters into the transaction:

19 (A) less than two years has passed since the dissociation; and

20 (B) the other party does not have notice of the dissociation and
21 reasonably believes that the person is a general partner.

22 (b) If a limited partnership is bound under subdivision (a), the
23 person dissociated as a general partner which caused the limited
24 partnership to be bound is liable:

25 (1) to the limited partnership for any damage caused to the
26 limited partnership arising from the obligation incurred under
27 subdivision (a); and

28 (2) if a general partner or another person dissociated as a
29 general partner is liable for the obligation, to the general partner
30 or other person for any damage caused to the general partner or
31 other person arising from the liability.

32 15906.07. (a) A person's dissociation as a general partner
33 does not of itself discharge the person's liability as a general
34 partner for an obligation of the limited partnership incurred
35 before dissociation. Except as otherwise provided in subdivisions
36 (b) and (c), the person is not liable for a limited partnership's
37 obligation incurred after dissociation.

38 (b) A person whose dissociation as a general partner resulted
39 in a dissolution and winding up of the limited partnership's
40 activities is liable to the same extent as a general partner under

1 Section 15904.04 on an obligation incurred by the limited
2 partnership under Section 15908.04.

3 (c) A person that has dissociated as a general partner but
4 whose dissociation did not result in a dissolution and winding up
5 of the limited partnership's activities is liable on a transaction
6 entered into by the limited partnership after the dissociation only
7 if:

8 (1) a general partner would be liable on the transaction; and

9 (2) at the time the other party enters into the transaction:

10 (A) less than two years has passed since the dissociation; and

11 (B) the other party does not have notice of the dissociation and
12 reasonably believes that the person is a general partner.

13 (d) By agreement with a creditor of a limited partnership and
14 the limited partnership, a person dissociated as a general partner
15 may be released from liability for an obligation of the limited
16 partnership.

17 (e) A person dissociated as a general partner is released from
18 liability for an obligation of the limited partnership if the limited
19 partnership's creditor, with notice of the person's dissociation as
20 a general partner but without the person's consent, agrees to a
21 material alteration in the nature or time of payment of the
22 obligation.

23
24 Article 7. Transferable Interests and Rights of Transferees and
25 Creditors
26

27 15907.01. The only interest of a partner which is transferable
28 is the partner's transferable interest. A transferable interest is
29 personal property.

30 15907.02. (a) A transfer, in whole or in part, of a partner's
31 transferable interest:

32 (1) is permissible;

33 (2) does not by itself cause the partner's dissociation or a
34 dissolution and winding up of the limited partnership's activities;
35 and

36 (3) does not, as against the other partners or the limited
37 partnership, entitle the transferee to participate in the
38 management or conduct of the limited partnership's activities, to
39 require access to information concerning the limited
40 partnership's transactions except as otherwise provided in

1 subdivision (c), or to inspect or copy the required information or
2 the limited partnership's other records or to exercise any other
3 rights or powers of a partner.

4 (b) A transferee has a right to receive, in accordance with the
5 transfer, distributions to which the transferor would otherwise be
6 entitled.

7 (c) A transferee is entitled to an account of the limited
8 partnership's transactions only upon the dissolution and winding
9 up of the limited partnership.

10 (d) Upon transfer, the transferor retains the rights of a partner
11 other than the interest in distributions transferred and retains all
12 duties and obligations of a partner.

13 (e) A limited partnership need not give effect to a transferee's
14 rights under this section until the limited partnership has notice
15 of the transfer.

16 (f) A transfer of a partner's transferable interest in the limited
17 partnership in violation of a restriction on transfer contained in
18 the partnership agreement is ineffective as to a person having
19 notice of the restriction at the time of transfer.

20 (g) A transferee that becomes a partner with respect to a
21 transferable interest is liable for the transferor's obligations under
22 Sections 15905.02 and 15905.09. However, the transferee is not
23 obligated for liabilities unknown to the transferee at the time the
24 transferee became a partner.

25 15907.03. (a) On application to a court of competent
26 jurisdiction by any judgment creditor of a partner or transferee,
27 the court may charge the transferable interest of the judgment
28 debtor with payment of the unsatisfied amount of the judgment
29 with interest. To the extent so charged, the judgment creditor has
30 only the rights of a transferee. The court may appoint a receiver
31 of the share of the distributions due or to become due to the
32 judgment debtor in respect of the partnership and make all other
33 orders, directions, accounts, and inquiries the judgment debtor
34 might have made or which the circumstances of the case may
35 require to give effect to the charging order.

36 (b) A charging order constitutes a lien on the judgment
37 debtor's transferable interest. The court may order a foreclosure
38 upon the interest subject to the charging order at any time. The
39 purchaser at the foreclosure sale has the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed:

(1) by the judgment debtor;

(2) with property other than limited partnership property, by one or more of the other partners; or

(3) with limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

(d) This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

(f) No creditor of a partner shall have any right to obtain possession or otherwise exercise legal or equitable remedies with respect to the property of the limited partnership.

15907.04. If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in Section 15907.02 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under Section 15903.04.

Article 8. Dissolution

15908.01. Except as otherwise provided in Section 15908.02, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of any of the following:

(a) the happening of an event specified in the partnership agreement;

(b) the consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;

(c) after the dissociation of a person as a general partner:

(1) if the limited partnership has at least one remaining general partner, and a consent to dissolve the limited partnership is given within 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or

(2) if the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:

(A) consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(B) at least one person is admitted as a general partner in accordance with the consent; or

(d) the passage of 90 days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner.

15908.02. (a) On application by a partner, a court of competent jurisdiction may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.

(b) In any suit for judicial dissolution, the other partners may avoid the dissolution of the limited partnership by purchasing for cash the partnership interests owned by the partners so initiating the proceeding (the "moving parties") at their fair market value. In fixing the value, the amount of any damages resulting if the initiation of the dissolution is a breach by any moving party or parties of an agreement with the purchasing party or parties, including, without limitation, the partnership agreement, may be deducted from the amount payable to the moving party or parties.

(c) If the purchasing parties (1) elect to purchase the partnership interests owned by the moving parties, (2) are unable to agree with the moving parties upon the fair market value of the partnership interests, and (3) give bond with sufficient security to pay the estimated reasonable expenses, including attorneys' fees, of the moving parties if the expenses are recoverable under paragraph (3), the court, upon application of the purchasing parties, either in the pending action or in a proceeding initiated in the superior court of the proper county by the purchasing parties, shall stay the winding up and dissolution proceeding and shall proceed to ascertain and fix the fair market value of the partnership interests owned by the moving parties.

(d) The court shall appoint three disinterested appraisers to appraise the fair market value of the partnership interests owned

by the moving parties, and shall make an order referring the matter to the appraisers so appointed for the purpose of ascertaining that value. The order shall prescribe the time and manner of producing evidence, if evidence is required. The award of the appraisers or a majority of them, when confirmed by the court, shall be final and conclusive upon all parties. The court shall enter a decree that shall provide in the alternative for winding up and dissolution of the limited partnership unless payment is made for the partnership interests within the time specified by the decree. If the purchasing parties do not make payment for the partnership interests within the time specified, judgment shall be entered against them and the surety or sureties on the bond for the amount of the expenses, including attorneys' fees, of the moving parties. Any member aggrieved by the action of the court may appeal therefrom.

(e) If the purchasing parties desire to prevent the winding up and dissolution of the limited partnership, they shall pay to the moving parties the value of their partnership interests ascertained and decreed within the time specified pursuant to this section, or, in the case of an appeal, as fixed on appeal. On receiving that payment or the tender thereof, the moving parties shall transfer their partnership interests to the purchasing parties.

(f) For the purposes of this section, the valuation date shall be the date upon which the action for judicial dissolution was commenced. However, the court may, upon the hearing of a motion by any party, and for good cause shown, designate some other date as the valuation date.

15908.03. (a) A limited partnership continues after dissolution only for the purpose of winding up its activities.

(b) In winding up its activities, the limited partnership:

(1) may amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a ~~statement of termination~~ *certificate of cancellation* as provided in Section 15902.03, and perform other necessary acts; and

(2) shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.

(c) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subdivision:

(1) has the powers of a general partner under Section 15908.04; and

(2) shall promptly amend the certificate of limited partnership to state:

(A) that the limited partnership does not have a general partner;

(B) the name of the person that has been appointed to wind up the limited partnership; and

(C) ~~the street and mailing~~ address of the person.

(d) On the application of any partner, the appropriate court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:

(1) a limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subdivision (c); or

(2) the applicant establishes other good cause.

(e) Unless otherwise provided in the partnership agreement, the limited partners winding up the affairs of the partnership pursuant to this section shall be entitled to reasonable compensation.

15908.04. (a) A limited partnership is bound by a general partner's act after dissolution which:

(1) is appropriate for winding up the limited partnership's activities; or

(2) would have bound the limited partnership under Section 15904.02 before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.

(b) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:

1 (1) at the time the other party enters into the transaction:

2 (A) less than two years has passed since the dissociation; and

3 (B) the other party does not have notice of the dissociation and
4 reasonably believes that the person is a general partner; and

5 (2) the act:

6 (A) is appropriate for winding up the limited partnership's
7 activities; or

8 (B) would have bound the limited partnership under Section
9 15904.02 before dissolution and at the time the other party enters
10 into the transaction the other party does not have notice of the
11 dissolution.

12 15908.05. (a) If a general partner having knowledge of the
13 dissolution causes a limited partnership to incur an obligation
14 under subdivision (a) of Section 15908.04 by an act that is not
15 appropriate for winding up the partnership's activities, the
16 general partner is liable:

17 (1) to the limited partnership for any damage caused to the
18 limited partnership arising from the obligation; and

19 (2) if another general partner or a person dissociated as a
20 general partner is liable for the obligation, to that other general
21 partner or person for any damage caused to that other general
22 partner or person arising from the liability.

23 (b) If a person dissociated as a general partner causes a limited
24 partnership to incur an obligation under subdivision (b) of
25 Section 15908.04, the person is liable:

26 (1) to the limited partnership for any damage caused to the
27 limited partnership arising from the obligation; and

28 (2) if a general partner or another person dissociated as a
29 general partner is liable for the obligation, to the general partner
30 or other person for any damage caused to the general partner or
31 other person arising from the liability.

32 15908.06. (a) A dissolved limited partnership may dispose of
33 the known claims against it by following the procedure described
34 in subdivision (b).

35 (b) A dissolved limited partnership may notify its known
36 claimants of the dissolution in a record. The notice must:

37 (1) specify the information required to be included in a claim;

38 (2) provide a mailing address to which the claim is to be sent;

(3) state the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant;

(4) state that the claim will be barred if not received by the deadline; and

(5) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 15904.04.

(c) A claim against a dissolved limited partnership is barred if the requirements of subdivision (b) are met and:

(1) the claim is not received by the specified deadline; or

(2) in the case of a claim that is timely received but rejected in writing by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within 90 days after the receipt of a written notice of the rejection.

(d) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

15908.07. (a) A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.

(b) The notice must:

(1) be published at least once in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located or, if it has none in this state, in the county in which the limited partnership's designated office is or was last located;

(2) describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;

(3) state that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within four years after publication of the notice; and

(4) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the

1 barring of a claim against the limited partnership will also bar
2 any corresponding claim against any general partner or person
3 dissociated as a general partner which is based on Section
4 15904.04.

5 (c) If a dissolved limited partnership publishes a notice in
6 accordance with subdivision (b), the claim of each of the
7 following claimants is barred unless the claimant commences an
8 action to enforce the claim against the dissolved limited
9 partnership within four years after the publication date of the
10 notice:

11 (1) a claimant that did not receive notice in a record under
12 Section 15908.06;

13 (2) a claimant whose claim was timely sent to the dissolved
14 limited partnership but not acted on; and

15 (3) a claimant whose claim is contingent or based on an event
16 occurring after the effective date of dissolution.

17 (d) A claim not barred under this section may be enforced:

18 (1) against the dissolved limited partnership, to the extent of
19 its undistributed assets;

20 (2) if the assets have been distributed in liquidation, against a
21 partner or transferee to the extent of that person's proportionate
22 share of the claim or the limited partnership's assets distributed
23 to the partner or transferee in liquidation, whichever is less, but a
24 person's total liability for all claims under this paragraph does
25 not exceed the total amount of assets distributed to the person as
26 part of the winding up of the dissolved limited partnership; or

27 (3) against any person liable on the claim under Section
28 15904.04.

29 15908.08. If a claim against a dissolved limited partnership is
30 barred under Section 15908.06 or 15908.07, any corresponding
31 claim under Section 15904.04 is also barred.

32 15908.09. (a) In winding up a limited partnership's activities,
33 the assets of the limited partnership, including the contributions
34 required by this section, must be applied to satisfy the limited
35 partnership's obligations to creditors, including, to the extent
36 permitted by law, partners that are creditors.

37 (b) Any surplus remaining after the limited partnership
38 complies with subdivision (a) must be paid in cash as a
39 distribution.

(c) If a limited partnership's assets are insufficient to satisfy all of its obligations under subdivision (a), with respect to each unsatisfied obligation incurred when the limited partnership was not a limited *liability limited* partnership, the following rules apply:

(1) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under Section 15906.07 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(2) If a person does not contribute the full amount required under paragraph (1) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph (1) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

(3) If a person does not make the additional contribution required by paragraph (2), further additional contributions are determined and due in the same manner as provided in that paragraph.

(d) A person that makes an additional contribution under paragraph (2) or (3) of subdivision (c) may recover from any person whose failure to contribute under paragraph (1) or (2) of subdivision (c) necessitated the additional contribution. A person may not recover under this subdivision more than the amount additionally contributed. A person's liability under this subdivision may not exceed the amount the person failed to contribute.

(e) The estate of a deceased individual is liable for the person's obligations under this section.

(f) An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subdivision (c).

Article 9. Foreign Limited Partnership

15909.01. (a) The laws of the State or other jurisdiction under which a foreign limited partnership is organized govern relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.

(b) A foreign limited partnership may not be denied a certificate of registration by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this state.

(c) A certificate of registration does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this state.

15909.02. (a) A foreign limited partnership may apply for a certificate of registration to transact business in this state by delivering an application ~~to signed and acknowledged by a general partner of the foreign limited partnership to, and on a form prescribed by,~~ the Secretary of State for filing. The application must state:

(1) the name of the foreign limited partnership and, if the name does not comply with Section 15901.08, an alternate name adopted pursuant to subdivision (a) of Section 15909.05.

(2) the name of the state or other jurisdiction under whose law the foreign limited partnership is organized *and the date of its formation*;

(3) ~~the street and mailing~~ address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, ~~the street and mailing~~ address of the required office;

(4) the name and ~~street and mailing~~ address of the foreign limited partnership's initial agent for service of process in this state;

(5) the name and ~~street and mailing~~ address of each of the foreign limited partnership's general partners; and

(6) whether the foreign limited partnership is a foreign limited liability limited partnership.

1 (b) A foreign limited partnership shall deliver with the
2 completed application a certificate of existence or a record of
3 similar import signed by the Secretary of State or other official
4 having custody of the foreign limited partnership's publicly filed
5 records in the state or other jurisdiction under whose law the
6 foreign limited partnership is organized.

7 15909.03. (a) Activities of a foreign limited partnership
8 which do not constitute transacting business in this state within
9 the meaning of this article include:

10 (1) maintaining, defending, and settling an action or
11 proceeding;

12 (2) holding meetings of its partners or carrying on any other
13 activity concerning its internal affairs;

14 (3) maintaining accounts in financial institutions;

15 (4) maintaining offices or agencies for the transfer, exchange,
16 and registration of the foreign limited partnership's own
17 securities or maintaining trustees or depositories with respect to
18 those securities;

19 (5) selling through independent contractors;

20 (6) soliciting or obtaining orders, whether by mail or
21 electronic means or through employees or agents or otherwise, if
22 the orders require acceptance outside this state before they
23 become contracts;

24 (7) creating or acquiring indebtedness, mortgages, or security
25 interests in real or personal property;

26 (8) securing or collecting debts or enforcing mortgages or
27 other security interests in property securing the debts, and
28 holding, protecting, and maintaining property so acquired;

29 (9) conducting an isolated transaction that is completed within
30 180 days and is not one in the course of similar transactions of a
31 like manner; and

32 (10) transacting business in interstate commerce.

33 (b) For purposes of this article, the ownership in this state of
34 income-producing real property or tangible personal property,
35 other than property excluded under subdivision (a), constitutes
36 transacting business in this state.

37 (c) This section does not apply in determining the contacts or
38 activities that may subject a foreign limited partnership to service
39 of process, taxation, or regulation under any other law of this
40 state.

~~15904.04.15909.04.~~ Unless the Secretary of State determines that an application for a certificate of registration does not comply with the filing requirements of this chapter, the Secretary of State, upon payment of all filing fees, shall file the application, prepare, sign and file a certificate of registration to transact business in this state, and send a copy of the filed certificate; ~~together with a receipt for the fees;~~ to the foreign limited partnership or its representative.

~~15904.05.15909.05.~~ (a) A foreign limited partnership whose name does not comply with Section 15901.08 may not obtain a certificate of registration until it adopts, for the purpose of transacting business in this state, an alternate name that complies with Section 15901.08.

(b) If a foreign limited partnership authorized to transact business in this state changes its name to one that does not comply with Section 15901.08, it may not thereafter transact business in this state until it complies with subdivision (a) and obtains an amended certificate of registration.

(c) The Secretary of State may cancel the application and certificate of registration of a foreign limited partnership if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

15909.06. If any statement in the application for registration of a foreign limited partnership was false when made or any statements made have become erroneous, the foreign limited partnership shall promptly deliver to, and on a form prescribed by, the Secretary of State an amendment to the application for registration signed and acknowledged by the general partner amending the statement.

~~15909.06.15909.07.~~ (a) In order to cancel its certificate of registration to transact business in this state, a foreign limited

1 partnership must deliver to *and on a form prescribed by the*
2 Secretary of State for filing a ~~notice certificate of cancellation.~~
3 ~~The certificate is canceled when the notice becomes~~ *cancellation*
4 *signed and acknowledged by a general partner of the foreign*
5 *limited partnership. The registration is canceled when the*
6 *certificate becomes effective under Section 15902.06.*

7 (b) A foreign limited partnership transacting business in this
8 state may not maintain an action or proceeding in this state unless
9 it has a certificate of registration to transact business in this state.

10 (c) *Any foreign limited partnership that transacts intrastate*
11 *business in this state without registration is subject to a penalty*
12 *of twenty dollars (\$20) for each day that the unauthorized*
13 *intrastate business is transacted, up to a maximum of ten*
14 *thousand dollars (\$10,000). An action to recover this penalty*
15 *may be brought, and any recovery shall be paid, as provided in*
16 *Section 2258.*

17 (d) The failure of a foreign limited partnership to have a
18 certificate of registration to transact business in this state does
19 not impair the validity of a contract or act of the foreign limited
20 partnership or prevent the foreign limited partnership from
21 defending an action or proceeding in this state.

22 ~~(d)~~

23 (e) A partner of a foreign limited partnership is not liable for
24 the obligations of the foreign limited partnership solely by reason
25 of the foreign limited partnership's having transacted business in
26 this state without a certificate of registration.

27 ~~(e)~~

28 (f) If a foreign limited partnership transacts business in this
29 state without a certificate of registration or cancels its certificate
30 of registration, it appoints the Secretary of State as its agent for
31 service of process for rights of action arising out of the
32 transaction of business in this state.

33 ~~15909.07:15909.08.~~ The Attorney General may maintain an
34 action to restrain a foreign limited partnership from transacting
35 business in this state in violation of this article.

36 Article 10. Actions by Partners

37
38
39 15910.01. (a) Subject to subdivision (b), a partner may
40 maintain a direct action against the *limited* partnership or another

1 partner for legal or equitable relief, with or without an accounting
2 as to *the* partnership's activities, to enforce the rights and
3 otherwise protect the interests of the partner, including rights and
4 interests under the partnership agreement or this chapter or
5 arising independently of the partnership relationship.

6 (b) A partner bringing a direct action under this section is
7 required to plead and prove an actual or threatened injury that is
8 not solely the result of an injury suffered or threatened to be
9 suffered by the limited partnership.

10 (c) The accrual of, and any time limitation on, a right of action
11 for a remedy under this section is governed by other law. A right
12 to an accounting upon a dissolution and winding up does not
13 revive a claim barred by law.

14 15910.02. A partner may bring a derivative action to enforce
15 a right of a limited partnership if:

16 (1) the partner first makes a demand on the general partners,
17 requesting that they cause the limited partnership to bring an
18 action to enforce the right, and the general partners do not bring
19 the action within a reasonable time; or

20 (2) a demand would be futile.

21 ~~1510.03:15910.03.~~ (a) A derivative action may be
22 maintained only by a person that is a partner at the time the
23 action is commenced and:

24 (1) that was a partner when the conduct giving rise to action
25 occurred; or

26 (2) whose status as a partner devolved upon the person by
27 operation of law or pursuant to the terms of the partnership
28 agreement from a person that was a partner at the time of that
29 conduct.

30 (b) Notwithstanding the foregoing, any partner who does not
31 meet the foregoing requirements may nevertheless be allowed in
32 the discretion of the court to maintain the action on a preliminary
33 showing to and determination by the court, by motion and after a
34 hearing, at which the court shall consider such evidence, by
35 affidavit or testimony, as it deems material that (1) there is a
36 strong prima facie case in favor of the claim asserted on behalf of
37 the partnership, (2) no other similar action has been or is likely to
38 be instituted, (3) the plaintiff acquired the shares before there was
39 disclosure to the public ~~of~~ and to the plaintiff of the wrongdoing
40 of which plaintiff complains, (4) unless the action can be

1 maintained the defendant may retain a gain derived from the
2 defendant's willful breach of a fiduciary duty, and (5) the
3 requested relief will not result in unjust enrichment of the
4 partnership or any partner.

5 15910.04. In a derivative action, the complaint must state
6 with particularity:

7 (1) the date and content of plaintiff's demand and the general
8 partners' response to the demand; or

9 (2) why demand is excused as futile.

10 15910.05. (a) Except as otherwise provided in subdivision
11 (b):

12 (1) any proceeds or other benefits of a derivative action,
13 whether by judgment, compromise, or settlement, belong to the
14 limited partnership and not to the derivative plaintiff;

15 (2) if the derivative plaintiff receives any of those proceeds,
16 the derivative plaintiff shall immediately remit them to the
17 limited partnership.

18 (b) If a derivative action is successful in whole or in part, the
19 court may award the plaintiff reasonable expenses, including
20 reasonable attorney's fees, from the recovery of the limited
21 partnership.

22 15910.06. (a) In any derivative action, at any time within 30
23 days after service of summons upon the *limited* partnership or the
24 general partner, the *limited* partnership or general partner may
25 move the court for an order, upon notice and hearing, requiring
26 the plaintiff to furnish a bond as hereinafter provided. The
27 motion shall be based upon one or both of the following grounds:

28 (1) That there is no ~~reasonably~~ *reasonable* possibility that the
29 prosecution of the cause of action alleged in the complaint
30 against the moving party will benefit the *limited* partnership or its
31 partners.

32 (2) That the moving party, if other than the partnership, did
33 not participate in the transaction complained of in any capacity.
34 The court on application of the *limited* partnership or the general
35 partner may, for good cause shown, extend the 30-day period for
36 ~~an addition~~ *additional* period or periods not exceeding 60-days.

37 (b) At the hearing upon any motion pursuant to the subdivision
38 (a) the court shall consider such evidence, written or oral, by
39 witnesses or affidavit, as may be material (1) to the ground or
40 grounds upon which the motion is based, or (2) to a

determination of the probable reasonable expenses, including attorneys' fees, of the *limited* partnership and the general partner which will be incurred in defense of the action. If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the amount of the bond, not to exceed fifty thousand dollars (\$50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys fees, which may be incurred by the moving party and the *limited* partnership in connection with the action, including expenses for which the *limited* partnership may become liable pursuant to subdivision (c) of Section 15904.06. A ruling by the court on the motion shall not be a determination of any issue in the action or of the merits thereof. If the court, upon motion, makes a determination that a bond shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to the defendant or defendants, unless the bond required by the court has been furnished within such reasonable time as may be fixed by the court.

(c) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (a), or any order or determination pursuant to the motion, furnish a bond in the aggregate amount of fifty thousand dollars (\$50,000) to secure the reasonable expenses of the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for a bond theretofore made, any such motion then pending shall be dismissed and no further additional bond shall be required.

(d) If a motion is filed pursuant to subdivision (a), no pleadings need to be filed by the *limited* partnership or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

Article 11. Conversion and Merger

~~15911.01. In this article:~~

~~(1) "Constituent limited partnership" means a constituent organization that is a limited partnership.~~

~~(2) "Constituent organization" means an organization that is party to a merger.~~

1 ~~(3) “Converted organization” means the organization into~~
2 ~~which a converting organization converts pursuant to Sections~~
3 ~~15911.02 to 15911.05, inclusive.~~

4 ~~(4) “Converting limited partnership” means a converting~~
5 ~~organization that is a limited partnership.~~

6 ~~(5) “Converting organization” means an organization that~~
7 ~~converts into another organization pursuant to Section 15911.02.~~

8 ~~(6) “General partner” means a general partner of a limited~~
9 ~~partnership.~~

10 ~~(7) “Governing statute” of an organization means the statute~~
11 ~~that governs the organization’s internal affairs.~~

12 ~~(8) “Organization” means a general partnership, including a~~
13 ~~limited liability partnership; limited partnership, including a~~
14 ~~limited liability limited partnership; limited liability company;~~
15 ~~business trust; corporation; or any other person having a~~
16 ~~governing statute. The term includes domestic and foreign~~
17 ~~organizations whether or not organized for profit.~~

18 ~~(9) “Organizational documents” means:~~

19 ~~(A) for a domestic or foreign general partnership, its~~
20 ~~partnership agreement;~~

21 ~~(B) for a limited partnership or foreign limited partnership, its~~
22 ~~certificate of limited partnership and partnership agreement;~~

23 ~~(C) for a domestic or foreign limited liability company, its~~
24 ~~articles of organization and operating agreement, or comparable~~
25 ~~records as provided in its governing statute;~~

26 ~~(D) for a business trust, its agreement of trust and declaration~~
27 ~~of trust;~~

28 ~~(E) for a domestic or foreign corporation for profit, its articles~~
29 ~~of incorporation, bylaws, and other agreements among its~~
30 ~~shareholders which are authorized by its governing statute, or~~
31 ~~comparable records as provided in its governing statute; and~~

32 ~~(F) for any other organization, the basic records that create the~~
33 ~~organization and determine its internal governance and the~~
34 ~~relations among the persons that own it, have an interest in it, or~~
35 ~~are members of it.~~

36 ~~(10) “Personal liability” means personal liability for a debt,~~
37 ~~liability or other obligation of an organization which is imposed~~
38 ~~on a person that coowns, has an interest in, or is a member of the~~
39 ~~organization.~~

1 ~~(A) by the organization's governing statute solely by reason of~~
2 ~~the person coowning, having an interest in, or being a member of~~
3 ~~the organization; or~~

4 ~~(B) by the organization's organizational documents under a~~
5 ~~provision of the organization's governing statute authorizing~~
6 ~~those documents to make one or more specified persons liable for~~
7 ~~all or specified debts, liabilities, and other obligations of the~~
8 ~~organization solely by reason of the person or persons coowning,~~
9 ~~having an interest in, or being a member of the organization.~~

10 ~~(11) "Surviving organization" means an organization into~~
11 ~~which one or more other organizations are merged. A surviving~~
12 ~~organization may preexist the merger or be created by the~~
13 ~~merger.~~

14 ~~15911.02. (a) An organization other than a limited~~
15 ~~partnership may convert to a limited partnership, and a limited~~
16 ~~partnership may convert to another organization pursuant to this~~
17 ~~section and Sections 15911.03 to 15911.05, inclusive, and a plan~~
18 ~~of conversion, if:~~

19 ~~(1) the other organization's governing statute authorizes the~~
20 ~~conversion;~~

21 ~~(2) the conversion is not prohibited by the law of the~~
22 ~~jurisdiction that enacted the governing statute; and~~

23 ~~(3) the other organization complies with its governing statute~~
24 ~~in effecting the conversion.~~

25 ~~(b) A plan of conversion must be in a record and must include:~~

26 ~~(1) the name and form of the organization before conversion;~~

27 ~~(2) the name and form of the organization after conversion;~~
28 ~~and~~

29 ~~(3) the terms and conditions of the conversion, including the~~
30 ~~manner and basis for converting interests in the converting~~
31 ~~organization into any combination of money, interests in the~~
32 ~~converted organization, and other consideration; and~~

33 ~~(4) the organizational documents of the converted~~
34 ~~organization.~~

35 ~~15911.03. (a) Subject to Section 15911.10, a plan of~~
36 ~~conversion must be consented to by all the general partners and a~~
37 ~~majority in interest of each class of limited partners of a~~
38 ~~converting limited partnership.~~

39 ~~(b) Subject to Section 15911.10 and any dissenter's rights~~
40 ~~provided in Article 11.5 (commencing with Section 15911.14),~~

1 after a conversion is approved, and at any time before a filing is
2 made under Section 15911.04, a converting limited partnership
3 may amend the plan or abandon the planned conversion:

4 (1) as provided in the plan; and
5 (2) except as prohibited by the plan, by the same consent as
6 was required to approve the plan.

7 15911.04. (a) After a plan of conversion is approved:

8 (1) a converting limited partnership shall deliver to the
9 Secretary of State for filing articles of conversion, which must
10 include:

11 (A) a statement that the limited partnership has been converted
12 into another organization;

13 (B) the name and form of the organization and the jurisdiction
14 of its governing statute;

15 (C) the date the conversion is effective under the governing
16 statute of the converted organization;

17 (D) a statement that the conversion was approved as required
18 by this chapter;

19 (E) a statement that the conversion was approved as required
20 by the governing statute of the converted organization; and

21 (F) if the converted organization is a foreign organization not
22 authorized to transact business in this state, the street and mailing
23 address of an office which the Secretary of State may use for the
24 purposes of subdivision (c) of Section 15911.05; and

25 (2) if the converting organization is not a converting limited
26 partnership, the converting organization shall deliver to the
27 Secretary of State for filing a certificate of limited partnership,
28 which must include, in addition to the information required by
29 Section 15902.01:

30 (A) a statement that the limited partnership was converted
31 from another organization;

32 (B) the name and form of the organization and the jurisdiction
33 of its governing statute; and

34 (C) a statement that the conversion was approved in a manner
35 that complied with the organization's governing statute.

36 (b) A conversion becomes effective:

37 (1) if the converted organization is a limited partnership, when
38 the certificate of limited partnership takes effect; and

1 ~~(2) if the converted organization is not a limited partnership,~~
2 ~~as provided by the governing statute of the converted~~
3 ~~organization.~~

4 ~~15911.05. (a) An organization that has been converted~~
5 ~~pursuant to this article is for all purposes the same entity that~~
6 ~~existed before the conversion.~~

7 ~~(b) When a conversion takes effect:~~

8 ~~(1) all property owned by the converting organization remains~~
9 ~~vested in the converted organization;~~

10 ~~(2) all debts, liabilities, and other obligations of the converting~~
11 ~~organization continue as obligations of the converted~~
12 ~~organization;~~

13 ~~(3) an action or proceeding pending by or against the~~
14 ~~converting organization may be continued as if the conversion~~
15 ~~had not occurred;~~

16 ~~(4) except as prohibited by other law, all of the rights,~~
17 ~~privileges, immunities, powers, and purposes of the converting~~
18 ~~organization remain vested in the converted organization;~~

19 ~~(5) except as otherwise provided in the plan of conversion, the~~
20 ~~terms and conditions of the plan of conversion take effect; and~~

21 ~~(6) except as otherwise agreed, the conversion does not~~
22 ~~dissolve a converting limited partnership for the purposes of~~
23 ~~Article 8 (commencing with Section 15908.01).~~

24 ~~(c) A converted organization that is a foreign organization~~
25 ~~consents to the jurisdiction of the courts of this state to enforce~~
26 ~~any obligation owed by the converting limited partnership, if~~
27 ~~before the conversion the converting limited partnership was~~
28 ~~subject to suit in this state on the obligation. A converted~~
29 ~~organization that is a foreign organization and not authorized to~~
30 ~~transact business in this state appoints the Secretary of State as its~~
31 ~~agent for service of process for purposes of enforcing an~~
32 ~~obligation under this subdivision. Service on the Secretary of~~
33 ~~State under this subdivision is made in the same manner and with~~
34 ~~the same consequences as in subdivisions (c) and (d) of Section~~
35 ~~15901.17.~~

36 ~~15911.055. (a) Whenever a limited partnership or other~~
37 ~~business entity having any real property in this state converts into~~
38 ~~a limited partnership or another business entity pursuant to the~~
39 ~~laws of this state or of the state or place in which the limited~~
40 ~~partnership or other business entity was organized, and the laws~~

1 of the state or place or organization, including this state, of the
2 converting limited partnership or other converting entity provide
3 substantially that the conversion vests in the converted limited
4 partnership or other converted entity all the real property of the
5 converting limited partnership or other converting entity, the
6 filing for record in the office of the county recorder of any
7 county in this state in which any of the real property of the
8 converting limited partnership or other converting entity is
9 located of either (1) the articles of conversion or statement of
10 partnership authority, a certificate of limited partnership, articles
11 of incorporation, or articles of organization complying with
12 Section 15911.04, in the form prescribed and certified by the
13 Secretary of State, or (2) a copy of the articles of conversion or a
14 statement of partnership authority, certificate of limited
15 partnership, articles of organization, articles or certificate of
16 incorporation, or other certificate or document evidencing the
17 creation of a foreign other business entity or foreign limited
18 partnership by conversion, containing a statement of conversion,
19 certified by the Secretary of State or an authorized public official
20 of the state or place pursuant to the laws of which the conversion
21 is effected, shall evidence record ownership in the converted
22 limited partnership or other converted entity of all interest of the
23 converting limited partnership or other converting entity in and to
24 the real property located in that county.

25 (b) A filed and, if appropriate, recorded articles of conversion
26 or a statement of partnership authority, certificate of limited
27 partnership, articles of organization, articles or certificate of
28 incorporation, or other certificate evidencing the creation of a
29 foreign other business entity or foreign limited partnership by
30 conversion, containing a statement of conversion, filed pursuant
31 to subdivision (a) of Section 15911.04, stating the name of the
32 converting limited partnership or other converting entity in
33 whose name property was held before the conversion and the
34 name of the converted entity or converted limited partnership,
35 but not containing all of the other information required by
36 Section 15911.04, operates with respect to the entities named to
37 the extent provided in subdivision (a).

38 (c) Recording of the articles of conversion, or a statement of
39 partnership authority, certificate of limited partnership, articles of
40 organization, articles or certificate of incorporation, or other

1 ~~certificate evidencing the creation of an other business entity or a~~
2 ~~limited partnership by conversion, containing a statement of~~
3 ~~conversion, in accordance with subdivision (a), shall create, in~~
4 ~~favor of bona fide purchasers or encumbrances for value, a~~
5 ~~conclusive presumption that the conversion was validly~~
6 ~~completed.~~

7 ~~15911.06. (a) A limited partnership may merge with one or~~
8 ~~more other constituent organizations pursuant to this section and~~
9 ~~Sections 15911.07 to 15911.09, inclusive, and a plan of merger,~~
10 ~~if:~~

11 ~~(1) the governing statute of each the other organizations~~
12 ~~authorizes the merger;~~

13 ~~(2) the merger is not prohibited by the law of a jurisdiction~~
14 ~~that enacted any of those governing statutes; and (3) each of the~~
15 ~~other organizations complies with its governing statute in~~
16 ~~effecting the merger.~~

17 ~~(b) A plan of merger must be in a record and must include:~~

18 ~~(1) the name and form of each constituent organization;~~

19 ~~(2) the name and form of the surviving organization and, if the~~
20 ~~surviving organization is to be created by the merger, a statement~~
21 ~~to that effect;~~

22 ~~(3) the terms and conditions of the merger, including the~~
23 ~~manner and basis for converting the interests in each constituent~~
24 ~~organization into any combination of money, interests in the~~
25 ~~surviving organization, and other consideration;~~

26 ~~(4) if the surviving organization is to be created by the merger,~~
27 ~~the surviving organization's organizational documents; and~~

28 ~~(5) if the surviving organization is not to be created by the~~
29 ~~merger, any amendments to be made by the merger to the~~
30 ~~surviving organization's organizational documents.~~

31 ~~15911.07. (a) Subject to Section 15911.10, a plan of merger~~
32 ~~must be consented to by all of the general partners and a majority~~
33 ~~in interest of each class of limited partners of a constituent~~
34 ~~limited partnership.~~

35 ~~(b) Subject to Section 15911.10 and any dissenters' rights as~~
36 ~~provided in Article 11.5 (commencing with Section 15911.14),~~
37 ~~after a merger is approved, and at any time before a filing is~~
38 ~~made under Section 15911.08, a constituent limited partnership~~
39 ~~may amend the plan or abandon the planned merger:~~

40 ~~(1) as provided in the plan; and~~

~~(2) except as prohibited by the plan, with the same consent as was required to approve the plan.~~

~~15911.08. (a) After each constituent organization has approved a merger, articles of merger must be signed on behalf of:~~

~~(1) each preexisting constituent limited partnership, by each general partner listed in the certificate of limited partnership; and~~

~~(2) each other preexisting constituent organization, by an authorized representative.~~

~~(b) The articles of merger must include:~~

~~(1) the name and form of each constituent organization and the jurisdiction of its governing statute;~~

~~(2) the name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect;~~

~~(3) the date the merger is effective under the governing statute of the surviving organization;~~

~~(4) if the surviving organization is to be created by the merger:~~

~~(A) if it will be a limited partnership, the limited partnership's certificate of limited partnership; or~~

~~(B) if it will be an organization other than a limited partnership, the organizational document that creates the organization;~~

~~(5) if the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization;~~

~~(6) a statement as to each constituent organization that the merger was approved as required by the organization's governing statute;~~

~~(7) if the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office which the Secretary of State may use for the purposes of subdivision (b) of Section 15911.09; and~~

~~(8) any additional information required by the governing statute of any constituent organization.~~

~~(c) Each constituent limited partnership shall deliver the articles of merger for filing in the office of the Secretary of State.~~

~~(d) A merger becomes effective under this article:~~

~~(1) if the surviving organization is a limited partnership, upon the later of:~~

1 ~~(A) compliance with subdivision (c); or~~
2 ~~(B) subject to subdivision (c) of Section 15902.06, as specified~~
3 ~~in the articles of merger; or~~
4 ~~(2) if the surviving organization is not a limited partnership, as~~
5 ~~provided by the governing statute of the surviving organization.~~
6 ~~15911.09. (a) When a merger becomes effective:~~
7 ~~(1) the surviving organization continues or comes into~~
8 ~~existence;~~
9 ~~(2) each constituent organization that merges into the~~
10 ~~surviving organization ceases to exist as a separate entity;~~
11 ~~(3) all property owned by each constituent organization that~~
12 ~~ceases to exist vests in the surviving organization;~~
13 ~~(4) all debts, liabilities, and other obligations of each~~
14 ~~constituent organization that ceases to exist continue as~~
15 ~~obligations of the surviving organization;~~
16 ~~(5) an action or proceeding pending by or against any~~
17 ~~constituent organization that ceases to exist may be continued as~~
18 ~~if the merger had not occurred;~~
19 ~~(6) except as prohibited by other law, all of the rights,~~
20 ~~privileges, immunities, powers, and purposes of each constituent~~
21 ~~organization that ceases to exist vest in the surviving~~
22 ~~organization;~~
23 ~~(7) except as otherwise provided in the plan of merger, the~~
24 ~~terms and conditions of the plan of merger take effect;~~
25 ~~(8) except as otherwise agreed, if a constituent limited~~
26 ~~partnership ceases to exist, the merger does not dissolve the~~
27 ~~limited partnership for the purposes of Article 8 (commencing~~
28 ~~with Section 15908.01);~~
29 ~~(9) if the surviving organization is created by the merger:~~
30 ~~(A) if it is a limited partnership, the certificate of limited~~
31 ~~partnership becomes effective; or~~
32 ~~(B) if it is an organization other than a limited partnership, the~~
33 ~~organizational document that creates the organization becomes~~
34 ~~effective; and~~
35 ~~(10) if the surviving organization preexists the merger, any~~
36 ~~amendments provided for in the articles of merger for the~~
37 ~~organizational document that created the organization become~~
38 ~~effective.~~
39 ~~(b) A surviving organization that is a foreign organization~~
40 ~~consents to the jurisdiction of the courts of this state to enforce~~

1 any obligation owed by a constituent organization, if before the
2 merger the constituent organization was subject to suit in this
3 state on the obligation. A surviving organization that is a foreign
4 organization and not authorized to transact business in this state
5 appoints the Secretary of State as its agent for service of process
6 for the purposes of enforcing an obligation under this
7 subdivision. Service on the Secretary of State under this
8 subdivision is made in the same manner and with the same
9 consequences as in subdivisions (c) and (d) of Section 15901.17.

10 15911.095. (a) Whenever a domestic or foreign limited
11 partnership or other business entity having any real property in
12 this state merges with another limited partnership or other
13 business entity pursuant to the laws of this state or of the state or
14 place in which any constituent limited partnership or constituent
15 other business entity was organized, and the laws of the state or
16 place of organization (including this state) of any disappearing
17 limited partnership or disappearing other business entity provide
18 substantially that the making and filing of the agreement of
19 merger or articles of merger vests in the surviving limited
20 partnership or surviving other business entity all the real property
21 of any disappearing limited partnership and disappearing other
22 business entity, the filing for record in the office of the county
23 recorder of any county in this state in which any of the real
24 property of the disappearing limited partnership or disappearing
25 other business entity is located of either (a) the articles of merger
26 certified by the Secretary of State, or other certificate prescribed
27 by the Secretary of State, or (b) a copy of the agreement of
28 merger or certificate of merger, certified by the Secretary of State
29 or an authorized public official of the state or place pursuant to
30 the laws of which the merger is effected, shall evidence record
31 ownership in the surviving limited partnership or surviving other
32 business entity of all interest of such disappearing limited
33 partnership or disappearing other business entity in and to the
34 real property located in that county.

35 (b) Recording of the articles of merger in accordance with this
36 section shall create, in favor of bona fide purchasers or
37 encumbrances for value, a conclusive presumption that the
38 merger was validly completed.

39 15911.10. (a) If a partner of a converting or constituent
40 limited partnership will have personal liability with respect to a

1 converted or surviving organization, approval and amendment of
2 a plan of conversion or merger are ineffective without the
3 consent of the partner, unless:

4 (1) the limited partnership's partnership agreement provides
5 for the approval of the conversion or merger with the consent of
6 fewer than all the partners; and

7 (2) the partner has consented to the provision of the
8 partnership agreement.

9 (b) An amendment to a certificate of limited partnership which
10 deletes a statement that the limited partnership is a limited
11 liability limited partnership is ineffective without the consent of
12 each general partner unless:

13 (1) the limited partnership's partnership agreement provides
14 for the amendment with the consent of less than all the general
15 partners; and

16 (2) each general partner that does not consent to the
17 amendment has consented to the provision of the partnership
18 agreement.

19 (c) A partner does not give the consent required by subdivision
20 (a) or (b) merely by consenting to a provision of the partnership
21 agreement which permits the partnership agreement to be
22 amended with the consent of fewer than all the partners.

23 15911.11. (a) A conversion or merger under this article does
24 not discharge any liability under Sections 1594.04 and 15906.07
25 of a person that was a general partner in or dissociated as a
26 general partner from a converting or constituent limited
27 partnership, but:

28 (1) the provisions of this chapter pertaining to the collection
29 or discharge of the liability continue to apply to the liability;

30 (2) for the purposes of applying those provisions, the
31 converted or surviving organization is deemed to be the
32 converting or constituent limited partnership; and

33 (3) if a person is required to pay any amount under this
34 subdivision:

35 (A) the person has a right of contribution from each other
36 person that was liable as a general partner under Section
37 15904.04 when the obligation was incurred and has not been
38 released from the obligation under Section 15906.07; and

39 (B) the contribution due from each of those persons is in
40 proportion to the right to receive distributions in the capacity of

1 ~~general partner in effect for each of those persons when the~~
2 ~~obligation was incurred.~~

3 ~~(b) In addition to any other liability provided by law:~~

4 ~~(1) a person that immediately before a conversion or merger~~
5 ~~became effective was a general partner in a converting or~~
6 ~~constituent limited partnership that was not a limited liability~~
7 ~~limited partnership is personally liable for each obligation of the~~
8 ~~converted or surviving organization arising from a transaction~~
9 ~~with a third party after the conversion or merger becomes~~
10 ~~effective, if, at the time the third party enters into the transaction,~~
11 ~~the third party:~~

12 ~~(A) does not have notice of the conversion or merger; and~~

13 ~~(B) reasonably believes that:~~

14 ~~(i) the converted or surviving business is the converting or~~
15 ~~constituent limited partnership;~~

16 ~~(ii) the converting or constituent limited partnership is not a~~
17 ~~limited liability limited partnership; and~~

18 ~~(iii) the person is a general partner in the converting or~~
19 ~~constituent limited partnership; and~~

20 ~~(2) a person that was dissociated as a general partner from a~~
21 ~~converting or constituent limited partnership before the~~
22 ~~conversion or merger became effective is personally liable for~~
23 ~~each obligation of the converted or surviving organization arising~~
24 ~~from a transaction with a third party after the conversion or~~
25 ~~merger becomes effective, if:~~

26 ~~(A) immediately before the conversion or merger became~~
27 ~~effective the converting or surviving limited partnership was a~~
28 ~~not a limited liability limited partnership; and~~

29 ~~(B) at the time the third party enters into the transaction less~~
30 ~~than two years have passed since the person dissociated as a~~
31 ~~general partner and the third party:~~

32 ~~(i) does not have notice of the dissociation;~~

33 ~~(ii) does not have notice of the conversion or merger; and~~

34 ~~(iii) reasonably believes that the converted or surviving~~
35 ~~organization is the converting or constituent limited partnership,~~
36 ~~the converting or constituent limited partnership is not a limited~~
37 ~~liability limited partnership, and the person is a general partner in~~
38 ~~the converting or constituent limited partnership.~~

39 ~~15911.12. (a) An act of a person that immediately before a~~
40 ~~conversion or merger became effective was a general partner in a~~

1 ~~converting or constituent limited partnership binds the converted~~
2 ~~or surviving organization after the conversion or merger becomes~~
3 ~~effective, if:~~

4 ~~(1) before the conversion or merger became effective, the act~~
5 ~~would have bound the converting or constituent limited~~
6 ~~partnership under Section 15904.02; and~~

7 ~~(2) at the time the third party enters into the transaction, the~~
8 ~~third party:~~

9 ~~(A) does not have notice of the conversion or merger; and~~

10 ~~(B) reasonably believes that the converted or surviving~~
11 ~~business is the converting or constituent limited partnership and~~
12 ~~that the person is a general partner in the converting or~~
13 ~~constituent limited partnership.~~

14 ~~(b) An act of a person that before a conversion or merger~~
15 ~~became effective was dissociated as a general partner from a~~
16 ~~converting or constituent limited partnership binds the converted~~
17 ~~or surviving organization after the conversion or merger becomes~~
18 ~~effective, if:~~

19 ~~(1) before the conversion or merger became effective, the act~~
20 ~~would have bound the converting or constituent limited~~
21 ~~partnership under Section 15904.02 if the person had been a~~
22 ~~general partner; and~~

23 ~~(2) at the time the third party enters into the transaction, less~~
24 ~~than two years have passed since the person dissociated as a~~
25 ~~general partner and the third party:~~

26 ~~(A) does not have notice of the dissociation;~~

27 ~~(B) does not have notice of the conversion or merger; and~~

28 ~~(C) reasonably believes that the converted or surviving~~
29 ~~organization is the converting or constituent limited partnership~~
30 ~~and that the person is a general partner in the converting or~~
31 ~~constituent limited partnership.~~

32 ~~(c) If a person having knowledge of the conversion or merger~~
33 ~~causes a converted or surviving organization to incur an~~
34 ~~obligation under subdivision (a) or (b), the person is liable:~~

35 ~~(1) to the converted or surviving organization for any damage~~
36 ~~caused to the organization arising from the obligation; and~~

37 ~~(2) if another person is liable for the obligation, to that other~~
38 ~~person for any damage caused to that other person arising from~~
39 ~~the liability.~~

1 ~~15911.13. This article does not preclude an entity from being~~
2 ~~converted or merged under other law.~~

3 15911.01. For purposes of this article, the following
4 definitions apply:

5 (a) “Converted entity” means the other business entity or
6 foreign other business entity or foreign limited partnership that
7 results from a conversion of a domestic limited partnership under
8 this chapter.

9 (b) “Converted limited partnership” means a domestic limited
10 partnership that results from a conversion of an other business
11 entity or a foreign other business entity or a foreign limited
12 partnership pursuant to Section 15911.08.

13 (c) “Converting limited partnership” means a domestic
14 limited partnership that converts to an other business entity or a
15 foreign other business entity or a foreign limited partnership
16 pursuant to this chapter.

17 (d) “Converting entity” means an other business entity or a
18 foreign other business entity or a foreign limited partnership that
19 converts to a domestic limited partnership pursuant to the terms
20 of Section 15911.08.

21 (e) “Constituent corporation” means a corporation that is
22 merged with or into one or more limited partnerships or other
23 business entities, and that includes a surviving corporation.

24 (f) “Constituent limited partnership” means a limited
25 partnership that is merged with or into one or more other limited
26 partnerships or other business entities, and that includes a
27 surviving limited partnership.

28 (g) “Constituent other business entity” means an other
29 business entity that is merged with or into one or more limited
30 partnerships, and that includes a surviving other business entity.

31 (h) “Disappearing limited partnership” means a constituent
32 limited partnership that is not the surviving limited partnership.

33 (i) “Disappearing other business entity” means a constituent
34 other business entity that is not the surviving other business
35 entity.

36 (j) “Foreign other business entity” means an other business
37 entity formed under the laws of any state other than this state or
38 under the laws of a foreign country.

39 (k) “Other business entity” means a corporation, general
40 partnership, limited liability company, business trust, real estate

1 *investment trust, or unincorporated association, other than a*
2 *nonprofit association, but excludes a limited partnership.*

3 *(l) "Surviving limited partnership" means a limited*
4 *partnership into which one or more other limited partnerships or*
5 *other business entities are merged.*

6 *(m) "Surviving other business entity" means another business*
7 *entity into which one or more limited partnerships are merged.*

8 *15911.02. (a) A limited partnership may be converted into*
9 *another business entity or a foreign other business entity or a*
10 *foreign limited partnership pursuant to this article if both of the*
11 *following apply:*

12 *(1) Pursuant to a conversion into a domestic or foreign*
13 *partnership or limited liability company or into a foreign limited*
14 *partnership, each of the partners of the converting limited*
15 *partnership receives a percentage interest in the profits and*
16 *capital of the converted entity equal to that partner's percentage*
17 *interest in profits and capital of the converting limited*
18 *partnership as of the effective time of the conversion.*

19 *(2) Pursuant to a conversion into an other business entity or*
20 *foreign other business entity not specified in paragraph (1), both*
21 *of the following occur:*

22 *(A) Each limited partnership interest of the same class is*
23 *treated equally with respect to any distribution of cash, property,*
24 *rights, interests, or securities of the converted entity, unless all*
25 *limited partners of the class consent.*

26 *(B) The nonredeemable limited partnership interests of the*
27 *converting limited partnership are converted only into*
28 *nonredeemable interests or securities of the converted entity,*
29 *unless all holders of the unredeemable interests consent.*

30 *(b) The conversion of a limited partnership to an other*
31 *business entity or a foreign other business entity or a foreign*
32 *limited partnership may be effected only if both of the following*
33 *conditions are satisfied:*

34 *(1) The law under which the converted entity will exist*
35 *expressly permits the formation of that entity pursuant to a*
36 *conversion.*

37 *(2) The limited partnership complies with all other*
38 *requirements of any other law that applies to conversion to the*
39 *converted entity.*

1 15911.03. (a) *A limited partnership that desires to convert to*
2 *an other business entity or a foreign other business entity or a*
3 *foreign limited partnership shall approve a plan of conversion.*
4 *The plan of conversion shall state all of the following:*

5 (1) *The terms and conditions of the conversion.*

6 (2) *The place of the organization of the converted entity and of*
7 *the converting limited partnership and the name of the converted*
8 *entity after conversion.*

9 (3) *The manner of converting the limited and general*
10 *partnership interests of each of the partners into shares of,*
11 *securities of, or interests in, the converted entity.*

12 (4) *The provisions of the governing documents for the*
13 *converted entity, including the partnership agreement, limited*
14 *liability company articles of organization and operating*
15 *agreement, or articles or certificate of incorporation if the*
16 *converted entity is a corporation, to which the holders of*
17 *interests in the converted entity are to be bound.*

18 (5) *Any other details or provisions that are required by the*
19 *laws under which the converted entity is organized, or that are*
20 *desired by the parties.*

21 (b) *The plan of conversion shall be approved by all general*
22 *partners of the converting limited partnership and by a majority*
23 *in interest of each class of limited partners of the converting*
24 *limited partnership, unless a greater or lesser approval is*
25 *required by the partnership agreement of the converting limited*
26 *partnership. However, if the limited partners of the limited*
27 *partnership would become personally liable for any obligations*
28 *of the converted entity as a result of the conversion, the plan of*
29 *conversion shall be approved by all of the limited partners of the*
30 *converting limited partnership, unless the plan of conversion*
31 *provides that all limited partners will have dissenters' rights as*
32 *provided in Article 11.5 (commencing with Section 15911.20).*

33 (c) *Upon the effectiveness of the conversion, all partners of the*
34 *converting limited partnership, except those that exercise*
35 *dissenters' rights as provided in Article 11.5 (commencing with*
36 *Section 15911.20), shall be deemed parties to any governing*
37 *documents for the converted entity adopted as part of the plan of*
38 *conversion, irrespective of whether or not the partner has*
39 *executed the plan of conversion or the governing documents for*
40 *the converted entity. Any adoption of governing documents made*

1 *pursuant thereto shall be effective at the effective time or date of*
2 *the conversion.*

3 *(d) Notwithstanding its prior approval, a plan of conversion*
4 *may be amended before the conversion takes effect if the*
5 *amendment is approved by all general partners of the converting*
6 *limited partnership and, if the amendment changes any of the*
7 *principal terms of the plan of conversion, the amendment is*
8 *approved by the limited partners of the converting limited*
9 *partnership in the same manner and to the same extent as*
10 *required for the approval of the original plan of conversion.*

11 *(e) The general partners of a converting limited partnership*
12 *may, by unanimous approval at any time before the conversion is*
13 *effective, in their discretion, abandon a conversion, without*
14 *further approval by the limited partners, subject to the*
15 *contractual rights of third parties other than limited partners.*

16 *(f) The converted entity shall keep the plan of conversion at*
17 *the principal place of business of the converted entity if the*
18 *converted entity is a domestic partnership or foreign other*
19 *business entity, at the principal executive office of, or registrar*
20 *or transfer agent of, the converted entity, if the converted entity is*
21 *a domestic corporation, or at the office at which records are to*
22 *be kept under Section 17057 if the converted entity is a domestic*
23 *limited liability company. Upon the request of a partner of a*
24 *converting limited partnership, the authorized person on behalf*
25 *of the converted entity shall promptly deliver to the partner or*
26 *the holder of shares, interests, or other securities, at the expense*
27 *of the converted entity, a copy of the plan of conversion. A*
28 *waiver by a partner of the rights provided in this subdivision*
29 *shall be unenforceable.*

30 *15911.04. (a) A conversion into an other business entity or a*
31 *foreign other business entity or a foreign limited partnership*
32 *shall become effective upon the earliest date that all of the*
33 *following occur:*

34 *(1) The plan of conversion is approved by the partners of the*
35 *converting limited partnership, as provided in Section 15911.03.*

36 *(2) All documents required by law to create the converted*
37 *entity are filed, which documents shall also contain a statement*
38 *of conversion if required under Section 15911.06.*

39 *(3) The effective date, if set forth in the plan of conversion,*
40 *occurs.*

1 **(b)** *A copy of the statement of partnership authority or articles*
2 *of organization complying with Section 15911.06, if applicable,*
3 *duly certified by the Secretary of State, is conclusive evidence of*
4 *the conversion of the limited partnership.*

5 15911.05. **(a)** *The conversion of a limited partnership into a*
6 *foreign limited partnership or foreign other business entity shall*
7 *be required to comply with Section 15911.02.*

8 **(b)** *If the limited partnership is converting into a foreign*
9 *limited partnership or foreign other business entity, those*
10 *conversion proceedings shall be in accordance with the laws of*
11 *the state or place of organization of the foreign limited*
12 *partnership or foreign other business entity and the conversion*
13 *shall become effective in accordance with that law.*

14 **(c)** **(1)** *To enforce an obligation of a limited partnership that*
15 *has converted to a foreign limited partnership or foreign other*
16 *business entity, the Secretary of State shall only be the agent for*
17 *service of process in an action or proceeding against that*
18 *converted foreign entity if the agent designated for the service of*
19 *process for that entity is a natural person and cannot be found*
20 *with due diligence or if the agent is a corporation and no person*
21 *to whom delivery may be made may be located with due*
22 *diligence, or if no agent has been designated and if no one of the*
23 *officers, partners, managers, members, or agents of that entity*
24 *may be located after diligent search and it is so shown by*
25 *affidavit to the satisfaction of the court. The court then may make*
26 *an order that service be made by personal delivery to the*
27 *Secretary of State or to an assistant or deputy Secretary of State*
28 *of two copies of the process together with two copies of the*
29 *order, and the order shall set forth an address to which the*
30 *process shall be sent by the Secretary of State. Service in this*
31 *manner is deemed complete on the 10th day after delivery of the*
32 *process to the Secretary of State.*

33 **(2)** *Upon receipt of the process and order and the fee set forth*
34 *in Section 12206 of the Government Code, the Secretary of State*
35 *shall provide notice to that entity of the service of the process by*
36 *forwarding by certified mail, return receipt requested, a copy of*
37 *the process and order to the address specified in the order.*

38 **(3)** *The Secretary of State shall keep a record of all process*
39 *served upon the Secretary of State and shall record therein the*
40 *time of service and the Secretary of State's action with respect*

1 *thereto. The certificate of the Secretary of State, under the*
2 *Secretary of State's official seal, certifying to the receipt of*
3 *process, the providing of notice thereof to that entity, and the*
4 *forwarding of the process shall be competent and prima facie*
5 *evidence of the matters stated therein.*

6 *15911.06. (a) Upon conversion of a limited partnership, one*
7 *of the following applies:*

8 *(1) If the limited partnership is converting into a domestic*
9 *limited liability company, a statement of conversion shall be*
10 *completed on the articles of organization for the converted entity.*

11 *(2) If the limited partnership is converting into a domestic*
12 *partnership, a statement of conversion shall be completed on the*
13 *statement of partnership authority for the converted entity. If no*
14 *statement of partnership authority is filed, a certificate of*
15 *conversion shall be filed separately.*

16 *(3) If the limited partnership is converting into a domestic*
17 *corporation, a statement of conversion shall be completed on the*
18 *articles of incorporation for the converted entity.*

19 *(4) If the limited partnership is converting to a foreign limited*
20 *partnership or foreign other business entity, a certificate of*
21 *conversion shall be filed with the Secretary of State.*

22 *(b) Any certificate or statement of conversion shall be*
23 *executed and acknowledged by all general partners, unless a*
24 *lesser number is provided in the certificate of limited*
25 *partnership, and shall set forth all of the following:*

26 *(1) The name and the Secretary of State's file number of the*
27 *converting limited partnership.*

28 *(2) A statement that the principal terms of the plan of*
29 *conversion were approved by a vote of the partners, that equaled*
30 *or exceeded the vote required under Section 15911.03, specifying*
31 *each class entitled to vote and the percentage vote required of*
32 *each class.*

33 *(3) The form of organization of the converted entity.*

34 *(4) The mailing address of the converted entity's agent for*
35 *service of process and the chief executive office of the converted*
36 *entity.*

37 *(c) The filing with the Secretary of State of a certificate of*
38 *conversion or a statement of partnership authority, articles of*
39 *organization, or articles or certificate of incorporation*
40 *containing a statement of conversion as set forth in subdivision*

1 (a) shall have the effect of the filing of a certificate of
2 cancellation by the converting limited partnership, and no
3 converting limited partnership that has made the filing is
4 required to file a certificate of cancellation under Section
5 15902.03 as a result of that conversion.

6 15911.07. (a) Whenever a limited partnership or other
7 business entity having any real property in this state converts
8 into a limited partnership or an other business entity pursuant to
9 the laws of this state or of the state or place in which the limited
10 partnership or other business entity was organized, and the laws
11 of the state or place of organization, including this state, of the
12 converting limited partnership or other converting entity provide
13 substantially that the conversion vests in the converted limited
14 partnership or other converted entity all the real property of the
15 converting limited partnership or other converting entity, the
16 filing for record in the office of the county recorder of any county
17 in this state in which any of the real property of the converting
18 limited partnership or other converting entity is located of either
19 of the following shall evidence record ownership in the converted
20 limited partnership or other converted entity of all interest of the
21 converting limited partnership or other converting entity in and
22 to the real property located in that county:

23 (1) A certificate of conversion or statement of partnership
24 authority, a certificate of limited partnership, articles of
25 incorporation, or articles of organization complying with Section
26 15911.06, in the form prescribed and certified by the Secretary of
27 State.

28 (2) A copy of a certificate of conversion or a statement of
29 partnership authority, certificate of limited partnership, articles
30 of organization, articles or certificate of incorporation, or other
31 certificate or document evidencing the creation of a foreign other
32 business entity or foreign limited partnership by conversion,
33 containing a statement of conversion, certified by the Secretary
34 of State or an authorized public official of the state or place
35 pursuant to the laws of which the conversion is effected.

36 (b) A filed and, if appropriate, recorded certificate of
37 conversion or a statement of partnership authority, certificate of
38 limited partnership, articles of organization, articles or
39 certificate of incorporation, or other certificate evidencing the
40 creation of a foreign other business entity or foreign limited

1 *partnership by conversion, containing a statement of conversion,*
2 *filed pursuant to subdivision (a) of Section 15911.06, stating the*
3 *name of the converting limited partnership or other converting*
4 *entity in whose name property was held before the conversion*
5 *and the name of the converted entity or converted limited*
6 *partnership, but not containing all of the other information*
7 *required by Section 15911.06, operates with respect to the*
8 *entities named to the extent provided in subdivision (a).*

9 *(c) Recording of a certificate of conversion, or a statement of*
10 *partnership authority, certificate of limited partnership, articles*
11 *of organization, articles or certificate of incorporation, or other*
12 *certificate evidencing the creation of an other business entity or*
13 *a limited partnership by conversion, containing a statement of*
14 *conversion, in accordance with subdivision (a), shall create, in*
15 *favor of bona fide purchasers or encumbrances for value, a*
16 *conclusive presumption that the conversion was validly*
17 *completed.*

18 *15911.08. (a) An other business entity or a foreign other*
19 *business entity or a foreign limited partnership may be converted*
20 *to a domestic limited partnership pursuant to this article only if*
21 *the converting entity is authorized by the laws under which it is*
22 *organized to effect the conversion.*

23 *(b) An other business entity or a foreign other business entity*
24 *or a foreign limited partnership that desires to convert into a*
25 *domestic limited partnership shall approve a plan of conversion*
26 *or another instrument as is required to be approved to effect the*
27 *conversion pursuant to the laws under which that entity is*
28 *organized.*

29 *(c) The conversion of an other business entity or a foreign*
30 *other business entity or a foreign limited partnership into a*
31 *domestic limited partnership shall be approved by the number or*
32 *percentage of the partners, members, shareholders, or holders of*
33 *interest of the converting entity as is required by the laws under*
34 *which that entity is organized, or a greater or lesser percentage,*
35 *subject to applicable laws, as set forth in the converting entity's*
36 *partnership agreement, articles of organization, operating*
37 *agreement, articles or certificate of incorporation, or other*
38 *governing document.*

39 *(d) The conversion by an other business entity or a foreign*
40 *other business entity or a foreign limited partnership into a*

1 *domestic limited partnership shall be effective under this article*
2 *at the time the conversion is effective under the laws under which*
3 *the converting entity is organized, as long as a certificate of*
4 *limited partnership containing a statement of conversion has*
5 *been filed with the Secretary of State. If the converting entity's*
6 *governing law is silent as to the effectiveness of the conversion,*
7 *the conversion shall be effective upon the completion of all acts*
8 *required under this title to form a limited partnership.*

9 *(e) The filing with the Secretary of State of a certificate of*
10 *conversion or a certificate of limited partnership containing a*
11 *statement of conversion pursuant to subdivision (a) shall have*
12 *the effect of the filing of a certificate of cancellation by the*
13 *converting foreign limited partnership or foreign limited liability*
14 *company and no converting foreign limited partnership or*
15 *foreign limited liability company that has made the filing is*
16 *required to file a certificate of cancellation under Section*
17 *15902.03 or 17455 as a result of that conversion. If a converting*
18 *other business entity is a foreign corporation qualified to*
19 *transact business in this state, the foreign corporation shall, by*
20 *virtue of the filing, automatically surrender its right to transact*
21 *intrastate business.*

22 *15911.09. (a) An entity that converts into another entity*
23 *pursuant to this article is, for all purposes, the same entity that*
24 *existed before the conversion and the conversion shall not be*
25 *deemed a transfer of property.*

26 *(b) Upon a conversion taking effect, all of the following apply:*

27 *(1) All the rights and property, whether real, personal, or*
28 *mixed, of the converting entity or converting limited partnership*
29 *are vested in the converted entity or converted limited*
30 *partnership.*

31 *(2) All debts, liabilities, and obligations of the converting*
32 *entity or converting limited partnership continue as debts,*
33 *liabilities, and obligations of the converted entity or converted*
34 *limited partnership.*

35 *(3) All rights of creditors and liens upon the property of the*
36 *converting entity or converting limited partnership shall be*
37 *preserved unimpaired and remain enforceable against the*
38 *converted entity or converted limited partnership to the same*
39 *extent as against the converting entity or converting limited*
40 *partnership as if the conversion had not occurred.*

1 (4) Any action or proceeding pending by or against the
2 converting entity or converting limited partnership may be
3 continued against the converted entity or converted limited
4 partnership as if the conversion had not occurred.

5 (c) A partner of a converting limited partnership is liable for
6 the following:

7 (1) All obligations of the converting limited partnership for
8 which the partner was personally liable before the conversion.

9 (2) All obligations of the converted entity incurred after the
10 conversion takes effect, but those obligations may be satisfied
11 only out of property of the entity if that partner is a limited
12 partner or a shareholder in a corporation, or unless expressly
13 provided otherwise in the articles of organization or other
14 governing documents, a member of a limited liability company,
15 or a holder of equity securities in an other converted entity if the
16 holders of equity securities in that entity are not personally liable
17 for the obligations of that entity under the law under which the
18 entity is organized or its governing documents.

19 (d) A partner of a converted limited partnership remains liable
20 for any and all obligations of the converting entity for which the
21 partner was personally liable before the conversion, but only to
22 the extent that the partner was liable for the obligations of the
23 converting entity prior to the conversion.

24 (e) If the other party to a transaction with the limited
25 partnership reasonably believes when entering the transaction
26 that the limited partner is a general partner, the limited partner
27 is liable for an obligation incurred by the limited partnership
28 within 90 days after the conversion takes effect. The limited
29 partner's liability for all other obligations of the limited
30 partnership incurred after the conversion takes effect is that of a
31 limited partner.

32 15911.10. Mergers of limited partnerships shall be governed
33 by Sections 15911.11 to 15911.19, inclusive.

34 15911.11. The following entities may be merged pursuant to
35 this article:

36 (a) Two or more limited partnerships into one limited
37 partnership.

38 (b) One or more limited partnerships and one or more other
39 business entities into one of those other business entities.

1 (c) One or more limited partnerships and one or more other
2 business entities into one limited partnership. Notwithstanding
3 this section, the merger of any number of limited partnerships
4 with any number of other business entities may be effected only if
5 the other business entities that are organized in California are
6 authorized by the laws under which they are organized to effect
7 the merger, and (1) if a limited partnership is the surviving
8 limited partnership, the foreign other business entities are not
9 prohibited by the laws under which they are organized from
10 effecting that merger, and (2) if a foreign limited partnership or
11 foreign other business entity is the survivor of the merger, the
12 laws of the jurisdiction under which the survivor is organized
13 authorize that merger. Notwithstanding the first sentence of this
14 paragraph, if one or more domestic corporations is also a party
15 to the merger described in that sentence, the merger may be
16 effected only if, with respect to any foreign other business entity
17 that is a corporation, the foreign corporation is authorized by the
18 laws under which it is organized to effect that merger.

19 15911.12. Each limited partnership and other business entity
20 that desires to merge shall approve an agreement of merger. The
21 agreement of merger shall be approved by all general partners of
22 each constituent limited partnership and the principal terms of
23 the merger shall be approved by a majority in interest of each
24 class of limited partners of each constituent limited partnership,
25 unless a greater approval is required by the partnership
26 agreement of the constituent limited partnership.
27 Notwithstanding the previous sentence, if the limited partners of
28 any constituent limited partnership become personally liable for
29 any obligations of a constituent limited partnership or
30 constituent other business entity as a result of the merger, the
31 principal terms of the agreement of merger shall be approved by
32 all of the limited partners of the constituent limited partnership,
33 unless the agreement of merger provides that all limited partners
34 will have the dissenters' rights provided in Article 11.5
35 (commencing with Section 15911.20). The agreement of merger
36 shall be approved on behalf of each constituent other business
37 entity by those persons required to approve the merger by the
38 laws under which it is organized. Other persons, including a
39 parent of a constituent limited partnership, may be parties to the
40 agreement of merger. The agreement of merger shall state:

1 (1) *The terms and conditions of the merger.*

2 (2) *The name and place of organization of the surviving*
3 *limited partnership or surviving other business entity, and of*
4 *each disappearing limited partnership and disappearing other*
5 *business entity, and the agreement of merger may change the*
6 *name of the surviving limited partnership, which new name may*
7 *be the same as or similar to the name of a disappearing domestic*
8 *or foreign limited partnership, subject to Section 15901.08.*

9 (3) *The manner of converting the partnership interests of each*
10 *of the constituent limited partnerships into interests, shares, or*
11 *other securities of the surviving limited partnership or surviving*
12 *other business entity, and if partnership interests of any of the*
13 *constituent limited partnerships are not to be converted solely*
14 *into interests, shares, or other securities of the surviving limited*
15 *partnership or surviving other business entity, the cash, property,*
16 *rights, interests, or securities that the holders of the partnership*
17 *interests are to receive in exchange for the partnership interests,*
18 *which cash, property, rights, interests, or securities may be in*
19 *addition to or in lieu of interests, shares, or other securities of*
20 *the surviving limited partnership or surviving other business*
21 *entity, or that the partnership interests are canceled without*
22 *consideration.*

23 (4) *Any other details or provisions that are required by the*
24 *laws under which any constituent other business entity is*
25 *organized, including, if a domestic corporation is a party to the*
26 *merger, subdivision (b) of Section 1113.*

27 (5) *Any other details or provisions that are desired, including,*
28 *without limitation, a provision for the treatment of fractional*
29 *partnership interests.*

30 (b) *Each limited partnership interest of the same class of any*
31 *constituent limited partnership, other than a limited partnership*
32 *interest in another constituent limited partnership that is being*
33 *canceled and that is held by a constituent limited partnership or*
34 *its parent or a limited partnership of which the constituent*
35 *limited partnership is a parent, shall, unless all limited partners*
36 *of the class consent, be treated equally with respect to any*
37 *distribution of cash, property, rights, interests, or securities.*
38 *Notwithstanding this subdivision, except in a merger of a limited*
39 *partnership with a limited partnership in which it controls at*
40 *least 90 percent of the limited partnership interests entitled to*

1 vote with respect to the merger, the unredeemable limited
2 partnership interests of a constituent limited partnership may be
3 converted only into unredeemable interests or securities of the
4 surviving limited partnership or other business entity or a parent
5 if a constituent limited partnership or a constituent other
6 business entity or its parent owns, directly or indirectly, prior to
7 the merger, limited partnership interests of another constituent
8 limited partnership or interests or securities of a constituent
9 other business entity representing more than 50 percent of the
10 interests or securities entitled to vote with respect to the merger
11 of the other constituent limited partnership or constituent other
12 business entity or more than 50 percent of the voting power, as
13 defined in Section 194.5, of a constituent other business entity
14 that is a domestic corporation, unless all of the limited partners
15 of the class consent. This subdivision shall apply only to
16 constituent limited partnerships with over 35 limited partners.

17 (c) Notwithstanding its prior approval, an agreement of
18 merger may be amended prior to the filing of the certificate of
19 merger or the agreement of merger, as provided in Section
20 15911.14, if the amendment is approved by the general partners
21 of each constituent limited partnership in the same manner as
22 required for approval of the original agreement of merger and, if
23 the amendment changes any of the principal terms of the
24 agreement of merger, the amendment is approved by the limited
25 partners of each constituent limited partnership in the same
26 manner and to the same extent as required for the approval of
27 the original agreement of merger, and by each of the constituent
28 other business entities.

29 (d) The general partners of a constituent limited partnership
30 may, in their discretion, abandon a merger, subject to the
31 contractual rights, if any, of third parties, including other
32 constituent limited partnerships and constituent other business
33 entities, without further approval by the limited partnership
34 interests, at any time before the merger is effective.

35 (e) An agreement of merger approved in accordance with
36 subdivision (a) may (1) effect any amendment to the partnership
37 agreement of any constituent limited partnership or (2) effect the
38 adoption of a new partnership agreement for a constituent
39 limited partnership if it is the surviving limited partnership in the
40 merger. Any amendment to a partnership agreement or adoption

1 of a new partnership agreement made pursuant to the foregoing
 2 sentence shall be effective at the effective time or date of the
 3 merger. Notwithstanding the above provisions of this subdivision,
 4 if a greater number of limited partners is required to approve an
 5 amendment to the partnership agreement of a constituent limited
 6 partnership than is required to approve the agreement of merger
 7 pursuant to subdivision (a), and the number of limited partners
 8 that approve the agreement of merger is less than the number of
 9 limited partners required to approve an amendment to the
 10 partnership agreement of the constituent limited partnership, any
 11 amendment to the partnership agreement or adoption of a new
 12 partnership agreement of that constituent limited partnership
 13 made pursuant to the first sentence of this subdivision shall be
 14 effective only if the agreement of merger provides that all of the
 15 limited partners shall have the dissenter's rights provided in
 16 Article 7.6 (commencing with Section 15911.20).

17 (f) The surviving limited partnership or surviving other
 18 business entity shall keep the agreement of merger at the office
 19 referred to in subdivision (a) of Section 15901.11 or at the
 20 business address specified in paragraph (5) of subdivision (a) of
 21 Section 15911.14, as applicable, and, upon the request of a
 22 limited partner of a constituent limited partnership or a holder of
 23 shares, interests, or other securities of a constituent other
 24 business entity, the general partners of the surviving limited
 25 partnership or the authorized person of the surviving other
 26 business entity shall promptly deliver to the limited partner or
 27 the holder of shares, interests, or other securities, at the expense
 28 of the surviving limited partnership or surviving other business
 29 entity, a copy of the agreement of merger. A waiver by a partner
 30 or holder of shares, interests, or other securities of the rights
 31 provided in this subdivision shall be unenforceable.

32 15911.13. Subdivision (b) of Section 15911.12 shall not apply
 33 to any transaction if the commissioner has approved the terms
 34 and conditions of the transaction and the fairness of such terms
 35 and conditions pursuant to Section 25142.

36 15911.14. (a) If the surviving entity is a limited partnership
 37 or an other business entity, other than a corporation in a merger
 38 in which a domestic corporation is a constituent party, after
 39 approval of a merger by the constituent limited partnerships and
 40 any constituent other business entities, the constituent limited

1 *partnerships and constituent other business entities shall file a*
2 *certificate of merger in the office of, and on a form prescribed*
3 *by, the Secretary of State. The certificate of merger shall be*
4 *executed and acknowledged by each domestic constituent limited*
5 *partnership by all general partners, unless a lesser number is*
6 *provided in the certificate of limited partnership of the domestic*
7 *constituent limited partnership, and by each foreign constituent*
8 *limited partnership by one or more general partners, and by each*
9 *constituent other business entity by those persons required to*
10 *execute the certificate of merger by the laws under which the*
11 *constituent other business entity is organized. The certificate of*
12 *merger shall set forth all of the following:*

13 *(1) The names and the Secretary of State's file numbers, if*
14 *any, of each of the constituent limited partnerships and*
15 *constituent other business entities, separately identifying the*
16 *disappearing limited partnerships and disappearing other*
17 *business entities and the surviving limited partnership or*
18 *surviving other business entity.*

19 *(2) If a vote of the limited partners was required under Section*
20 *15911.12, a statement setting forth the total number of*
21 *outstanding interests of each class entitled to vote on the merger*
22 *and that the principal terms of the agreement of merger were*
23 *approved by a vote of the number of interests of each class which*
24 *equaled or exceeded the vote required, specifying each class*
25 *entitled to vote and the percentage vote required of each class.*

26 *(3) If the surviving entity is a limited partnership and not an*
27 *other business entity, any change required to the information set*
28 *forth in the certificate of limited partnership of the surviving*
29 *limited partnership resulting from the merger, including any*
30 *change in the name of the surviving limited partnership resulting*
31 *from the merger. The filing of a certificate of merger setting forth*
32 *any such changes to the certificate of limited partnership of the*
33 *surviving limited partnership shall have the effect of the filing of*
34 *a certificate of amendment by the surviving limited partnership,*
35 *and the surviving limited partnership need not file a certificate of*
36 *amendment under Section 15902.02 to reflect those changes.*

37 *(4) The future effective date or time, which shall be a date or*
38 *time certain not more than 90 days subsequent to the date of*
39 *filing, of the merger, if the merger is not to be effective upon the*

1 *filing of the certificate of merger with the office of the Secretary*
2 *of State.*

3 *(5) If the surviving entity is an other business entity or a*
4 *foreign limited partnership, the full name of the entity, type of*
5 *entity, legal jurisdiction in which the entity was organized and by*
6 *whose laws its internal affairs are governed, and the address of*
7 *the principal place of business of the entity.*

8 *(6) Any other information required to be stated in the*
9 *certificate of merger by the laws under which each constituent*
10 *other business entity is organized, including, if a domestic*
11 *corporation is a party to the merger, paragraph (2) of*
12 *subdivision (g) of Section 1113. If the surviving entity is a foreign*
13 *limited partnership in a merger in which a domestic corporation*
14 *is a disappearing other business entity, a copy of the agreement*
15 *of merger and attachments as required under paragraph (1) of*
16 *subdivision (g) of Section 1113 shall be filed at the same time as*
17 *the filing of the certificate of merger.*

18 *(b) If the surviving entity is a domestic corporation or a*
19 *foreign corporation in a merger in which a domestic corporation*
20 *is a constituent party, after approval of the merger by the*
21 *constituent limited partnerships and constituent other business*
22 *entities, the surviving corporation shall file in the office of the*
23 *Secretary of State a copy of the agreement of merger and*
24 *attachments required under paragraph (1) of subdivision (g) of*
25 *Section 1113. The certificate of merger shall be executed and*
26 *acknowledged by each domestic constituent limited partnership*
27 *by all general partners, unless a lesser number is provided in the*
28 *certificate of limited partnership of the domestic constituent*
29 *limited partnership.*

30 *(c) A certificate of merger or the agreement of merger, as is*
31 *applicable under subdivision (a) or (b), shall have the effect of*
32 *the filing of a certificate of cancellation for each disappearing*
33 *limited partnership, and no disappearing limited partnership*
34 *need file a certificate of cancellation under Section 15902.03 as*
35 *a result of the merger.*

36 *(d) If the organization disappearing into the other business*
37 *entity is a foreign corporation qualified to transact intrastate*
38 *business in this state, a certificate of satisfaction of the Franchise*
39 *Tax Board as required by Section 23334 of the Revenue and*
40 *Taxation Code shall be filed with the certificate of merger or*

1 agreement of merger, as is applicable under subdivision (a) or
2 (b). By the filing of the certificate of merger or agreement of
3 merger, as is applicable, the foreign corporation shall
4 automatically surrender its right to transact intrastate business.

5 15911.15. (a) Unless a future effective date or time is
6 provided in a certificate of merger or the agreement of merger, if
7 an agreement of merger is required to be filed under Section
8 15911.14, in which event the merger shall be effective at that
9 future effective date or time, a merger shall be effective upon the
10 filing of the certificate of merger or the agreement of merger, as
11 is applicable, in the office of the Secretary of State.

12 (b) (1) For all purposes, a copy of the certificate of merger
13 duly certified by the Secretary of State is conclusive evidence of
14 the merger of (A) the constituent limited partnerships, either by
15 themselves or together with constituent other business entities,
16 into the surviving other business entity, or (B) the constituent
17 limited partnerships or the constituent other business entities, or
18 both, into the surviving limited partnership.

19 (2) In a merger in which the surviving entity is a corporation
20 in a merger in which a domestic corporation and a domestic
21 limited partnership are parties to the merger, a copy of an
22 agreement of merger certified on or after the effective date by an
23 official having custody thereof has the same force in evidence as
24 the original and, except as against the state, is conclusive
25 evidence of the performance of all conditions precedent to the
26 merger, the existence on the effective date of the surviving
27 corporation, and the performance of the conditions necessary to
28 the adoption of any amendment to the articles of incorporation of
29 the surviving corporation, if applicable, contained in the
30 agreement of merger.

31 15911.16. (a) Upon a merger of limited partnerships or
32 limited partnerships and other business entities pursuant to this
33 chapter, the separate existence of the disappearing limited
34 partnerships and disappearing other business entities ceases and
35 the surviving limited partnership or surviving other business
36 entity shall succeed, without other transfer, act or deed, to all the
37 rights and property, whether real, personal, or mixed, of each of
38 the disappearing limited partnerships and disappearing other
39 business entities, and shall be subject to all the debts and
40 liabilities of each in the same manner as if the surviving limited

1 *partnership or surviving other business entity had itself incurred*
2 *them.*

3 *(b) All rights of creditors and all liens upon the property of*
4 *each of the constituent limited partnerships and constituent other*
5 *business entities shall be preserved unimpaired and may be*
6 *enforced against the surviving limited partnership or the*
7 *surviving other business entity to the same extent as if the debt,*
8 *liability, or duty which gave rise to that lien had been incurred or*
9 *contracted by the surviving limited partnership or the surviving*
10 *other business entity, provided that such liens upon the property*
11 *of a disappearing limited partnership or disappearing other*
12 *business entity shall be limited to the property affected thereby*
13 *immediately prior to the time the merger is effective.*

14 *(c) Any action or proceeding pending by or against any*
15 *disappearing limited partnership or disappearing other business*
16 *entity may be prosecuted to judgment, which shall bind the*
17 *surviving limited partnership or surviving other business entity,*
18 *or the surviving limited partnership or surviving other business*
19 *entity may be proceeded against or be substituted in the place of*
20 *the disappearing limited partnership or disappearing other*
21 *business entity.*

22 *(d) Nothing in this article is intended to affect the liability a*
23 *general partner of a disappearing limited partnership may have*
24 *in connection with the debts and liabilities of the disappearing*
25 *limited partnership existing prior to the time the merger is*
26 *effective.*

27 *15911.17. (a) The merger of any number of domestic limited*
28 *partnerships with any number of foreign limited partnerships or*
29 *foreign other business entities shall be required to comply with*
30 *Section 15911.10.*

31 *(b) If the surviving entity is a domestic limited partnership or*
32 *a domestic other business entity, the merger proceedings with*
33 *respect to that limited partnership or other business entity and*
34 *any domestic disappearing limited partnership shall conform to*
35 *the provisions of this chapter governing the merger of domestic*
36 *limited partnerships, but if the surviving entity is a foreign*
37 *limited partnership or a foreign other business entity, then,*
38 *subject to the requirements of subdivision (d) and Article 11.5*
39 *(commencing with Section 15911.20) and, with respect to any*
40 *domestic constituent corporation, Section 1113 and Chapters 12*

1 *(commencing with Section 1200) and 13 (commencing with*
2 *Section 1300) of Division 1 of Title 1, the merger proceedings*
3 *may be in accordance with the laws of the state or place of*
4 *organization of the surviving limited partnership or surviving*
5 *other business entity.*

6 *(c) If the surviving entity is a domestic limited partnership or*
7 *domestic other business entity, other than a domestic*
8 *corporation, the certificate of merger shall be filed as provided*
9 *in subdivision (a) of Section 15911.14, and thereupon, subject to*
10 *subdivision (a) of Section 15911.15, the merger shall be effective*
11 *as to each domestic constituent limited partnership and domestic*
12 *constituent other business entity. If the surviving entity is a*
13 *domestic corporation, the agreement of merger with attachments*
14 *shall be filed as provided in subdivision (b) of Section 15911.14,*
15 *and thereupon, subject to subdivision (a) of Section 15911.15,*
16 *the merger shall be effective as to each domestic constituent*
17 *limited partnership and domestic constituent other business*
18 *entity unless another effective date is provided in Chapter 11*
19 *(commencing with Section 1100) of Division 1 of Title 1, with*
20 *respect to any constituent corporation or constituent limited*
21 *partnership.*

22 *(d) If the surviving entity is a foreign limited partnership or*
23 *foreign other business entity, the merger shall become effective*
24 *in accordance with the law of the jurisdiction in which the*
25 *surviving limited partnership or surviving other business entity is*
26 *organized, but shall be effective as to any domestic disappearing*
27 *limited partnership as of the time of effectiveness in the foreign*
28 *jurisdiction upon the filing in this state of a certificate of merger*
29 *or agreement of merger as provided in Section 15911.14.*

30 *(e) If a merger described in subdivision (c) or (d) also*
31 *includes a foreign disappearing limited partnership previously*
32 *registered for the transaction of intrastate business in this state*
33 *pursuant to Section 15909.02, the filing of the certificate of*
34 *merger or agreement of merger, as is applicable under Section*
35 *15911.14, automatically has the effect of a cancellation of*
36 *registration for that foreign limited partnership pursuant to*
37 *Section 15909.06 without the necessity of the filing of a*
38 *certificate of cancellation.*

39 *(f) The provisions of subdivision (b) of Section 15911.12 and*
40 *Article 11.5 (commencing with Section 15911.20) apply to the*

1 *rights of the limited partners of any of the constituent limited*
2 *partnerships that are domestic limited partnerships and of any*
3 *domestic limited partnership that is a parent of any foreign*
4 *constituent limited partnership.*

5 *15911.18. Whenever a domestic or foreign limited*
6 *partnership or other business entity having any real property in*
7 *this state merges with another limited partnership or other*
8 *business entity pursuant to the laws of this state or of the state or*
9 *place in which any constituent limited partnership or constituent*
10 *other business entity was organized, and the laws of the state or*
11 *place of organization, including this state, of any disappearing*
12 *limited partnership or disappearing other business entity provide*
13 *substantially that the making and filing of the agreement of*
14 *merger or certificate of merger vests in the surviving limited*
15 *partnership or surviving other business entity all the real*
16 *property of any disappearing limited partnership and*
17 *disappearing other business entity, the filing for record in the*
18 *office of the county recorder of any county in this state in which*
19 *any of the real property of the disappearing limited partnership*
20 *or disappearing other business entity is located of either of the*
21 *following shall evidence record ownership in the surviving*
22 *limited partnership or surviving other business entity of all*
23 *interest of such disappearing limited partnership or disappearing*
24 *other business entity in and to the real property located in that*
25 *county:*

26 *(a) A certificate of merger certified by the Secretary of State,*
27 *or other certificate prescribed by the Secretary of State.*

28 *(b) A copy of the agreement of merger or certificate of merger,*
29 *certified by the Secretary of State or an authorized public official*
30 *of the state or place pursuant to the laws of which the merger is*
31 *effected.*

32 *15911.19. Recording of the certificate of merger in accordance*
33 *with Section 15911.18 shall create, in favor of bona fide*
34 *purchasers or encumbrancers for value, a conclusive*
35 *presumption that the merger was validly completed.*

36
37 Article 11.5 Dissenting Limited Partners' Rights
38

39 ~~15911.14.~~15911.20. (a) For purposes of this article,
40 "reorganization" refers to any of the following:

1 (1) A conversion pursuant to Article 11 (commencing with
2 Section 15911.01).

3 (2) A merger pursuant to Article 11 (commencing with
4 Section ~~15911.01~~) 15911.10).

5 (3) The acquisition by one limited partnership in exchange, in
6 whole or in part, for its partnership interests (or the partnership
7 interests or equity securities of a partnership or other business
8 entity that is in control of the acquiring limited partnership) of
9 partnership interests or equity securities of another limited
10 partnership or other business entity if, immediately after the
11 acquisition, the acquiring limited partnership has control of the
12 other limited partnership or other business entity.

13 (4) The acquisition by one limited partnership in exchange in
14 whole or in part for its partnership interests (or the partnership
15 interests or equity securities of a partnership or other business
16 entity which is in control of the acquiring limited partnership) or
17 for its debts securities (or debt securities of a limited partnership
18 or other business entity which is in control of the acquiring
19 limited partnership) which are not adequately secured and which
20 have a maturity date in excess of five years after the
21 consummation of the acquisition, or both, of all or substantially
22 all of the assets of another limited partnership or other business
23 entity.

24 (b) For purposes of this article, “control” means the
25 possession, direct or indirect, of the power to direct or cause the
26 direction of the management and policies of a limited partnership
27 or other business entity.

28 ~~15911.15~~:15911.21. (a) If the approval of outstanding limited
29 partnership interests is required for a limited partnership to
30 participate in a reorganization, pursuant to the limited partnership
31 agreement of the partnership, or otherwise, then each limited
32 partner of the limited partnership holding those interests may, by
33 complying with this article, require the limited partnership to
34 purchase for cash, at its fair market value, the interest owned by
35 the limited partner in the limited partnership, if the interest is a
36 dissenting interest as defined in subdivision (b). The fair market
37 value shall be determined as of the day before the first
38 announcement of the terms of the proposed reorganization,
39 excluding any appreciation or depreciation in consequence of the
40 proposed reorganization.

1 (b) As used in this article, “dissenting interest” means the
2 interest of a limited partner that satisfies all of the following
3 conditions:

4 (1) Either:

5 (A) Was not, immediately prior to the reorganization, either (i)
6 listed on any national securities exchange certified by the
7 Commissioner of Corporations under subdivision (o) of Section
8 25100, or (ii) listed on the list of OTC margin stocks issued by
9 the Board of Governors of the Federal Reserve System, provided
10 that in either such instance the limited partnership whose
11 outstanding interests are so listed provides, in its notice to limited
12 partners requesting their approval of the proposed reorganization,
13 a summary of the provisions of this section and Sections
14 ~~15911.16, 15911.17, 15911.18, and 15911.19; or 15911.22,~~
15 ~~15911.23, 15911.24, and 15911.25.~~

16 (B) If the interest is of a class of interests listed as described in
17 clause (i) or (ii) of subparagraph (A), demands for payment are
18 filed with respect to 5 percent or more of the outstanding
19 interests of that class.

20 (2) Was outstanding on the date for the determination of
21 limited partners entitled to vote on the reorganization.

22 (3) (i) Was not voted in favor of the reorganization, or (ii) if
23 the interest is described in clause (i) or (ii) of subparagraph (A)
24 of paragraph (1), was voted against the reorganization; provided,
25 however, that clause (i) rather than clause (ii) of this paragraph
26 applies in any event where the approval for the proposed
27 reorganization is sought by written consent rather than at a
28 meeting.

29 (4) The limited partner has demanded that it be purchased by
30 the limited partnership at its fair market value in accordance with
31 ~~Section 15911.16~~ 15911.22.

32 (5) The limited partner has submitted it for endorsement, if
33 applicable, in accordance with ~~Section 15911.17~~ 15911.23.

34 (c) As used in this article, “dissenting limited partner” means
35 the recordholder of a dissenting interest, and includes an assignee
36 of record of such an interest.

37 ~~15911.16.15911.22.~~ (a) If limited partners have a right under
38 ~~Section 15911.15~~ 15911.21, subject to compliance with
39 paragraphs (4) and (5) of subdivision (b) thereof, to require the
40 limited partnership to purchase their limited partnership interests

1 for cash, such limited partnership shall mail to each such limited
2 partner a notice of the approval of the reorganization by the
3 requisite vote or consent of the limited partners, within 10 days
4 after the date of such approval, accompanied by a copy of this
5 section and Sections ~~15911.15, 15911.17, 15911.18, and~~
6 ~~15911.19~~ 15911.21, 15911.23, 15911.24, and 15911.25, a
7 statement of the price determined by the limited partnership to
8 represent the fair market value of its outstanding interests, and a
9 brief description of the procedure to be followed if the limited
10 partner desires to exercise the limited partner's rights under such
11 sections. The statement of price constitutes an offer by the
12 limited partnership to purchase at the price stated any dissenting
13 interests as defined in subdivision (b) of Section ~~15911.15~~
14 15911.21, unless they lose their status as dissenting interests
15 under Section ~~15911.24~~ 15911.30.

16 (b) Any limited partner who has a right to require the limited
17 partnership to purchase the limited partner's interest for cash
18 under Section ~~15911.15~~ 15911.21, subject to compliance with
19 paragraphs (4) and (5) of subdivision (b) thereof, and who desires
20 the limited partnership to purchase such interest, shall make
21 written demand upon the limited partnership for the purchase of
22 such interest and the payment to the limited partner in cash of its
23 fair market value. The demand is not effective for any purpose
24 unless it is received by the limited partnership or any transfer
25 agent thereof (1) in the case of interests described in clause (i) or
26 (ii) of subparagraph (A) of paragraph (1) of subdivision (b) of
27 Section ~~15911.15~~ 15911.21, not later than the date of the limited
28 partners' meeting to vote upon the reorganization, or (2) in any
29 other case, within 30 days after the date on which notice of the
30 approval of the reorganization by the requisite vote or consent of
31 the limited partners is mailed by the limited partnership to the
32 limited partners.

33 (c) The demand shall state the number or amount of the
34 limited partner's interest in the limited partnership and shall
35 contain a statement of what such limited partner claims to be the
36 fair market value of that interest on the day before the
37 announcement of the proposed reorganization. The statement of
38 fair market value constitutes an offer by the limited partner to sell
39 the interest at such price.

~~15911.17.~~15911.23. Within 30 days after the date on which notice of the approval of the outstanding interests of the limited partnership is mailed to the limited partner pursuant to subdivision (a) of Section ~~15911.16~~ 15911.22, the limited partner shall submit to the limited partnership at its principal office or at the office of any transfer agent thereof, (a) if the interest is evidenced by a certificate, the limited partner's certificate representing the interest which the limited partner demands that the limited partnership purchase, to be stamped or endorsed with a statement that the interest is a dissenting interest or to be exchanged for certificates of appropriate denominations so stamped or endorsed, or (b) if the interest is not evidenced by a certificate, written notice of the number or amount of interest which the limited partner demands that the limited partnership purchase. Upon subsequent transfers of the dissenting interest on the books of the limited partnership, the new certificates or other written statement issued therefor shall bear a like statement, together with the name of the original holder of the dissenting interest.

~~15911.18.~~15911.24. (a) If the limited partnership and the dissenting limited partner agree that such limited partner's interest is a dissenting interest and agree upon the price to be paid for the dissenting interest, the dissenting limited partner is entitled to the agreed price with interest thereon at the legal rate on judgments from the date of consummation of the reorganization. All agreements fixing the fair market value of any dissenting limited partner's interest as between the limited partnership and such limited partner shall be in writing and filed in the records of the limited partnership.

(b) Subject to the provisions of Section ~~15911.21~~ 15911.27, payment of the fair market value for a dissenting interest shall be made within 30 days after the amount thereof has been agreed to or within 30 days after any statutory or contractual conditions to the reorganization are satisfied, whichever is later, and in the case of dissenting interests evidenced by certificates of interest, subject to surrender of such certificates of interest, unless provided otherwise by agreement.

~~15911.19.~~15911.25. (a) If the limited partnership denies that a limited partnership interest is a dissenting interest, or the limited partnership and a dissenting limited partner fail to agree

1 upon the fair market value of a dissenting interest, then such
2 limited partner or any interested limited partnership, within six
3 months after the date on which notice of the approval of the
4 reorganization by the requisite vote or consent of the limited
5 partners was mailed to the limited partner, but not thereafter, may
6 file a complaint in the superior court of the proper county praying
7 the court to determine whether the interest is a dissenting interest,
8 or the fair market value of the dissenting interest, or both, or may
9 intervene in any action pending on such a complaint.

10 (b) Two or more dissenting limited partners may join as
11 plaintiffs or be joined as defendants in any such action and two
12 or more such actions may be consolidated.

13 (c) On the trial of the action, the court shall determine the
14 issues. If the status of the limited partnership interest as a
15 dissenting interest is in issue, the court shall first determine that
16 issue. If the fair market value of the dissenting interest is in issue,
17 the court shall determine, or shall appoint one or more impartial
18 appraisers to determine, the fair market value of the dissenting
19 interest.

20 ~~15911.20:15911.26.~~ (a) If the court appoints an appraiser or
21 appraisers, they shall proceed forthwith to determine the fair
22 market value per interest of the outstanding limited partnership
23 interests of the limited partnership, by class if necessary. Within
24 the time fixed by the court, the appraisers, or a majority of them,
25 shall make and file a report in the office of the clerk of the court.
26 Thereupon, on the motion of any party, the report shall be
27 submitted to the court and considered on such additional
28 evidence as the court considers relevant. If the court finds the
29 report reasonable, the court may confirm it.

30 (b) If a majority of the appraisers appointed fails to make and
31 file a report within 30 days from the date of their appointment, or
32 within such further time as may be allowed by the court, or the
33 report is not confirmed by the court, the court shall determine the
34 fair market value per interest of the outstanding limited
35 partnership interests of the limited partnership, by class if
36 necessary.

37 (c) Subject to Section ~~15911.21~~ 15911.27, judgment shall be
38 rendered against the limited partnership for payment of an
39 amount equal to the fair market value, as determined by the
40 court, of each dissenting interest which any dissenting limited

1 partner who is a party, or has intervened, is entitled to require the
2 limited partnership to purchase, with interest thereon at the legal
3 rate on judgments from the date of consummation of the
4 reorganization.

5 (d) Any such judgment shall be payable forthwith, provided,
6 however, that with respect to limited partnership interests
7 evidenced by transferable certificates of interest, only upon the
8 endorsement and delivery to the limited partnership of those
9 certificates representing the interests described in the judgment.
10 Any party may appeal from the judgment.

11 (e) The costs of the action, including reasonable compensation
12 for the appraisers, to be fixed by the court, shall be assessed or
13 apportioned as the court considers equitable, but, if the appraisal
14 exceeds the price offered by the limited partnership, the limited
15 partnership shall pay the costs (including, in the discretion of the
16 court, if the value awarded by the court for the dissenting interest
17 is more than 125 percent of the price offered by the limited
18 partnership under subdivision (a) of Section 15912.03, attorneys'
19 fees and fees of expert witnesses).

20 ~~15911.21:15911.27.~~ To the extent that the payment to
21 dissenting limited partners of the fair market value of their
22 dissenting interests would require the dissenting limited partners
23 to return such payment or a portion thereof by reason of Section
24 15905.09 or the Uniform Fraudulent Transfer Act (Chapter 1
25 (commencing with Section 3439) of Title 2 of Part 2 of Division
26 4 of the Civil Code), then that payment or portion thereof shall
27 not be made and the dissenting limited partners shall become
28 creditors of the limited partnership for the amount not paid,
29 together with interest thereon at the legal rate on judgments until
30 the date of payment, but subordinate to all other creditors in any
31 proceeding relating to the winding up and dissolution of the
32 limited partnership, such debt to be payable when permissible.

33 ~~15911.22:15911.28.~~ Any cash distributions made by a limited
34 partnership to a dissenting limited partner after the date of
35 consummation of the reorganization, but prior to any payment by
36 the limited partnership for such dissenting limited partner's
37 interest, shall be credited against the total amount to be paid by
38 the limited partnership for such dissenting interest.

39 ~~15911.23:15911.29.~~ Except as expressly limited by this
40 article, dissenting limited partners shall continue to have all the

1 rights and privileges incident to their interests immediately prior
2 to the reorganization, including limited liability, until payment by
3 the limited partnership for their dissenting interests. A dissenting
4 limited partner may not withdraw a demand for payment unless
5 the limited partnership consents thereto.

6 ~~15911.24.~~15911.30. A dissenting interest loses its status as a
7 dissenting interest and the holder thereof ceases to be a
8 dissenting limited partner and ceases to be entitled to require the
9 limited partnership to purchase the interest upon the happening of
10 any of the following:

11 (a) The limited partnership abandons the reorganization. Upon
12 abandonment of the reorganization, the limited partnership shall
13 pay, on demand, to any dissenting limited partner who has
14 initiated proceeding in good faith under this article, all
15 reasonable expenses incurred in such proceedings and reasonable
16 attorneys' fees.

17 (b) The interest is transferred prior to its submission for
18 endorsement in accordance with Section ~~15911.17~~ 15911.23.

19 (c) The dissenting limited partner and the limited partnership
20 do not agree upon the status of the interest as a dissenting interest
21 or upon the purchase price of the dissenting interest, and neither
22 files a complaint nor intervenes in a pending action, as provided
23 in Section ~~15911.19~~ 15911.25, within six months after the date
24 upon which notice of the approval of the reorganization by the
25 requisite vote or consent of limited partners was mailed to the
26 limited partner.

27 (d) The dissenting limited partner, with the consent of the
28 limited partnership, withdraws such limited partner's demand for
29 purchase of the dissenting interest.

30 ~~15911.25.~~15911.31. If litigation is instituted to test the
31 sufficient or regularity of the vote or consent of the limited
32 partners in authorizing a reorganization, any proceedings under
33 Sections ~~15911.19 and 15911.20~~ 15911.25 and 15911.26 shall be
34 suspended until final determination of that litigation.

35 ~~15911.26.~~15911.32. (a) This article applies to the following:

36 (1) A domestic limited partnership formed on or after January
37 1, 1991.

38 (2) A foreign limited partnership if (A) the foreign limited
39 partnership was formed on or after January 1, 1991 or filed an
40 application to qualify to do business on or after January 1, 1991,

1 and (B) limited partners holding more than 50 percent of the
2 voting power held by all limited partners of the foreign limited
3 partnership reside in this state.

4 (3) A limited partnership if the partnership agreement so
5 provides or if all general partners and a majority in interest of the
6 limited partners determine that this article shall apply.

7 (b) This article does not apply to limited partnership interests
8 governed by limited partnership agreements whose terms and
9 provisions specifically set forth the amount to be paid in respect
10 of such interests in the event of a reorganization of the limited
11 partnership, or to limited partnerships with 35 or fewer limited
12 partners, unless the partnership agreement provides that this
13 article shall apply or unless all general partners and a majority in
14 interest of the limited partners agree that this article shall apply.

15 ~~15911.27:15911.33.~~ (a) No limited partner of a limited
16 partnership who has a right under this article to demand payment
17 of cash for the interest owned by such limited partner in a limited
18 partnership shall have any right at law or in equity to attack the
19 validity of the reorganization, or to have the reorganization set
20 aside or rescinded, except in an action to test whether the vote or
21 consent of limited partners required to authorize or approve the
22 reorganization has been obtained in accordance with the
23 procedures established therefor by the partnership agreement of
24 the limited partnership.

25 (b) If one of the parties to a reorganization is directly or
26 indirectly controlled by, or under common control with, another
27 party to the reorganization, subdivision (a) shall not apply to any
28 limited partner of such controlled party who has not demanded
29 payment of cash for such limited partner's interest pursuant to
30 this article; but if such limited partner institutes any action to
31 attack the validity of the reorganization or to have the
32 reorganization set aside or rescinded, the limited partner shall not
33 thereafter have any right to demand payment of cash for such
34 limited partner's interest pursuant to this article.

35 (c) If one of the parties to a reorganization is directly or
36 indirectly controlled by, or under common control with, another
37 party to the reorganization, then, in any action to attack the
38 validity of the reorganization or to have the reorganization set
39 aside or rescinded, (1) a party to a reorganization which controls
40 another party to a reorganization shall have the burden of proving

1 that the transaction is just and reasonable as to the limited
2 partners of the controlled party, and (2) a person who controls
3 two or more parties to a reorganization shall have the burden of
4 proving that the transaction is just and reasonable as to the
5 limited partners of any party so controlled.

6 (d) Subdivisions (b) and (c) shall not apply if a majority in
7 interest of the limited partners other than limited partners who
8 are directly or indirectly controlled by, or under common control
9 with, another party to the reorganization approve or consent to
10 the reorganization.

11 (e) This section shall not prevent a partner of a limited
12 partnership that is a party to a reorganization from bringing an
13 action against a general partner of the limited partnership, the
14 limited partnership, or any person controlling a general partner at
15 law or in equity as to any matters (including, without limitation,
16 an action for breach of fiduciary obligation or fraud) other than to
17 attack the validity of the reorganization or to have the
18 reorganization set aside or rescinded.

19
20 Article 12. Miscellaneous Provisions

21
22 15912.01. In applying and construing this chapter,
23 consideration must be given to the need to promote uniformity of
24 the law with respect to its subject matter among states that enact
25 it.

26 15912.02. If any provision of this chapter or its application to
27 any person or circumstance is held invalid, the invalidity does not
28 affect other provisions or applications of this chapter which can
29 be given effect without the invalid provision or application, and
30 to this end, the provisions of this chapter are severable.

31 15912.03. This chapter modifies, limits, or supersedes the
32 federal Electronic Signatures in Global and National Commerce
33 Act, 15 U.S.C. Section 7001 et seq., but this chapter does not
34 modify, limit, or supersede Section 101(c) of that act or authorize
35 electronic delivery of any of the notices described in Section
36 103(b) of that act.

37 15912.04. This chapter shall become operative on January 1,
38 2006.

39 15912.06. (a) Before January 1, 2008, this chapter governs
40 only:

1 (1) a limited partnership formed on or after January 1, 2006;
2 and

3 (2) except as otherwise provided in subdivisions (c) and (d), a
4 limited partnership formed before January 1, 2006, which elects,
5 in the manner provided in its partnership agreement or by law for
6 amending the partnership agreement, to be subject to this chapter.

7 (b) Except as otherwise provided in subdivision (c), on and
8 after January 1, 2008, this chapter governs all limited
9 partnerships.

10 (c) With respect to a limited partnership formed before
11 January 1, 2006, the following rules apply except as the partners
12 otherwise elect in the manner provided in the partnership
13 agreement or by law for amending the partnership agreement:

14 (1) Section 15901.04(c) does not apply and the limited
15 partnership has whatever duration it had under the law applicable
16 immediately before January 1, 2006.

17 (2) the limited partnership is not required to amend its
18 certificate of limited partnership to comply with paragraph (4) of
19 subdivision (a) of Section 15902.01.

20 (3) Sections 15906.01 and 15906.02 do not apply and a limited
21 partner has the same right and power to dissociate from the
22 limited partnership, with the same consequences, as existed
23 immediately before January 1, 2006.

24 (4) Subdivision (d) of Section 15906.03 does not apply.

25 (5) Subdivision (e) of Section 15906.03 does not apply and a
26 court has the same power to expel a general partner as the court
27 had immediately before January 1, 2006.

28 (6) Subdivision (c) of Section 15908.01 does not apply and the
29 connection between a person's dissociation as a general partner
30 and the dissolution of the limited partnership is the same as
31 existed immediately before January 1, 2006.

32 (d) With respect to a limited partnership that elects pursuant to
33 paragraph (2) of subdivision (a) to be subject to this chapter, after
34 the election takes effect the provisions of this chapter relating to
35 the liability of the limited partnership's general partners to third
36 parties apply:

37 (1) before January 1, 2008, to:

38 (A) a third party that had not done business with the limited
39 partnership in the year before the election took effect; and

(B) a third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and

(2) on and after January 1, 2008, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under subparagraph (B) of paragraph (1).

15912.07. This chapter does not affect an action commenced, proceeding brought, or right accrued before this chapter becomes operative.

SEC. 8. Section 12188 of the Government Code is repealed.

~~12188. The limited partnership filing fees are the following:~~

~~(a) Issuing a certificate of reservation of limited partnership name: Ten dollars (\$10).~~

~~(b) Filing a certificate of limited partnership or an application for registration as a foreign limited partnership: Seventy dollars (\$70).~~

~~(c) Filing an amendment, including restatements, to the certificate of limited partnership or to the application of a foreign limited partnership: Thirty dollars (\$30).~~

~~(d) Filing a certificate of continuation for a domestic limited partnership after a certificate of dissolution has been filed: Thirty dollars (\$30).~~

~~(e) Filing a certificate of dissolution or certificate of cancellation by a limited partnership, either domestic or foreign: No fee.~~

~~(f) Filing a certificate of merger pursuant to Section 15678.4 of the Corporations Code, for the merger of one limited partnership with one or more other limited partnerships: Seventy dollars (\$70).~~

~~(g) Filing merger documents for the merger of one or more limited partnerships with one or more other types of business entities: One hundred fifty dollars (\$150).~~

SEC. 9. Section 12188 is added to the Government Code, to read:

12188. The limited partnership filing fees are the following:

(a) Issuing a certificate of reservation of limited partnership name: ten dollars (\$10).

1 **(b) Filing a certificate of limited partnership of a limited**
2 **partnership: seventy dollars (\$70).**

3 **(c) Filing an application for registration as a foreign limited**
4 **partnership: seventy dollars (\$70).**

5 **(d) Filing a certificate of amendment to the certificate of**
6 **limited partnership of a limited partnership: thirty dollars (\$30).**

7 **(e) Filing a restated certificate of limited partnership of a**
8 **limited partnership: thirty dollars (\$30).**

9 **(f) Filing an amendment to the application for registration of**
10 **a foreign limited partnership: thirty dollars (\$30).**

11 **(g) Filing a certificate of correction for a limited partnership**
12 **or a foreign limited partnership: thirty dollars (\$30).**

13 **(h) Filing a certificate of revival for a limited partnership or a**
14 **foreign limited partnership: thirty dollars (\$30).**

15 **(i) Filing a certificate of merger solely with one or more other**
16 **limited partnerships (not including the merger of one or more**
17 **limited partnerships with one or more other business entities) the**
18 **fee for filing a certificate of merger: seventy dollars (\$70).**

19 **(j) Filing a certificate of merger of one or more limited**
20 **partnerships with one or more other business entities: one**
21 **hundred fifty dollars (\$150).**

22 **(k) Filing a certificate of conversion of a limited partnership**
23 **into a foreign other business entity or general partnerships:**
24 **thirty dollars (\$30).**

25 **(l) Filing articles of incorporation containing a statement of**
26 **conversion of a limited partnership into a domestic corporation:**
27 **one hundred fifty dollars (\$150).**

28 **(m) Filing articles of organization or statement of partnership**
29 **authority containing a statement of conversion of a limited**
30 **partnership into a domestic limited liability company or a**
31 **registered general partnership: seventy dollars (\$70).**

32 **(n) Filing the substitute service of a limited partnership: fifty**
33 **dollars (\$50).**

34 **(o) Filing a certificate of cancellation for a limited**
35 **partnership or a foreign limited partnership: no fee.**

36 **(p) Filing a resignation of partnership agent: no fee.**

37 **(q) Filing any instrument by or on behalf of a limited**
38 **partnership unless another fee is specified or the law specifies**
39 **that no fee is to be charged: thirty dollars (\$30).**

O